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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Kazuhito Niwano
Application No. 11/203,154
Filed: August 15, 2005
For: **COMMUNICATION SYSTEM, BASE STATION, AND MOBILE STATION**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 25, 2005, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

Applicant's submission is deficient in that it does not comply with items (5) and (6) above. Applicant states that the "References cited in Applicants' searches were included in the Information Disclosure Statement (IDS) filed August 15, 2005.."..."Consistent with the searches discussed above, Applicants respectfully submit that the claims of the parent application patentably distinguish over all of the references now of record. A detailed discussion pursuant to 37 C.F.R.§1.111 is provided below, pointing out how the claimed subject matter is patentable over the references of record." Applicant's IDS submission of August 15, 2005 included four foreign patents and three non-patent literature documents. However, applicant failed to fully discuss all but three of those cited documents. Moreover, applicant must point out with particularity, not only how the claims distinguish from the relevant art, but also 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, in accordance with 37 C.F.R. §1.111(c).

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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

MAILED
JUN 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Kazuhito Niwano	:	DECISION ON PETITION
Application Number: 11/203154	:	TO WITHDRAW HOLDING OF
Filing Date: 08/15/2005	:	ABANDONMENT
Attorney Docket Number:	:	
276262US2CONT	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on March 17, 2010.

The application was held abandoned for failure to file a reply in response to the non-final Office action mailed on October 30, 2008, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on February 4, 2010.

Petitioner asserts that a reply, in the form of a request to a have preliminary amendment entered and the non-final Office action rescinded, was filed on December 12, 2008, accompanied by a copy of the aforementioned preliminary amendment.

A review of the Official file reveals that on December 12, 2008, *inter alia*, a request for reconsideration of the non-final Office action was filed, along with a copy of the preliminary amendment asserted to have been previously filed.

As the request for reconsideration was filed in response to the Office action mailed on October 30, 2008, the showing of record is that a timely response to the Office action mailed on October 30, 2008, was filed on December 12, 2008. Therefore, there is no abandonment in fact.

The petition is **GRANTED**.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2617 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,185	08/15/2005	Gary E. Wheat	13DV14916-5	8892

49305 7590 02/28/2008
JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

EXAMINER
CHANDRA, SATISH

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
02/28/2008	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.

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	11/203,185
Filing Date	August 15, 2005
First Named Inventor	Gary WHEAT
Art Unit	1792
Examiner Name	CHANDRA, Satish
Attorney Docket Number	13DV14916-5

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

2-28-08
Approved
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 49305

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: ——

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[x] The address associated with Customer Number: 6111

OR

[ ] Firm *or* Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

Signature	/Eric W. Guttag/		
Name	Eric W. Guttag	Registration No.	28,853
Date	February 7, 2008	Telephone No.	703-591-2664

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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook, et. al. :
Application No. 11/203,189 :
Filed: August 15, 2005 :
Attorney Docket No. ART142US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on August 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed February 23, 2006. A Notice of Abandonment was mailed on July 26, 2006.

The Office acknowledges receipt of $1,500 for the petition to revive fee, $1,400 for the issue fee and $300 for the publication fee. However, 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 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(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**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

Since the instant petition is unsigned, it 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.**

If the instant petition is signed or submitted on behalf of the assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed with this decision.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency decision.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

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.

PTO/SB/96 (09-06)
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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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

Entitled:

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

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

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

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

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

OR

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

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

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

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

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

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

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

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

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Kia Silverbrook
Silverbrook Research Pty Ltd.
393 Darling Street
Balmain, NSW 2041
AUSTRALIA

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APR 26 2007

OFFICE OF PETITIONS

In re Application of:	:	
Kia Silverbrook	:	DECISION ON RENEWED
Application No.: 11/203,189	:	PETITION UNDER 37 CFR 1.137(b)
Filed: August 15, 2005	:	
Atty's Docket No.: ART142US	:	

This is a decision on the renewed petition for revival of the above-entitled application under 37 CFR 1.137(b), filed November 24, 2006.

The renewed petition is **GRANTED**.

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 mailed February 23, 2006, which set a statutory period for reply of three (3) months.

On August 14, 2006, applicant filed a petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfied the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it included: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. However, the petition was dismissed as it was not signed and therefore the statement of unintentional delay could not be accepted. The present renewed petition, including statement of unintentional delay has been executed by Kia Silverbrook, managing director of the corporate assignee. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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

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In re Application of	:	
INOUE, et al.	:	
Application No. 11/203,201	:	DECISION GRANTING PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **114539.01**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 7, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/21/2010

Applicant	: Woo-Sun Yoon	: DECISION ON REQUEST FOR
Patent Number	: 7657166	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/203,221	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **382** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,247	08/15/2005	Takashi Tanimoto	125063	8564

7590 06/03/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
DASTOURI, MEHRDAD

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
06/03/2008	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:
06/03/2008 NFARMER 0000162977

CHECK Refund Total: $500.00

Adjustment date: 06/03/2008 NFARMER
08/17/2005 EHAILE1 00000018 11203247
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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

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OFFICE OF PETITIONS

In re Application of

OLIVE, Scott
Application No. 11/203,266
Filed: August 12, 2005
Attorney Docket No. **595122000801**

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 28, 2007.

The request is **APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SCOTT OLIVE**
1/130 WANGANELLA STREET
BALGOWLAH, AU 2095

cc: **CHRIS GEORGE**
MCANDREWS, HELD & MALLY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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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. 11/203,270
Filed: August 15, 2005
For: **COMMUNICATIONS SYSTEM, COMMUNICATIONS APPARATUS, COMMUNICATIONS TERMINAL AND COMMUNICATIONS METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed January 9, 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: John Kim II	: DECISION ON REQUEST FOR
Patent Number	: 7635905	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,279	: 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 **632** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/21/2010

Applicant	: Seung-woon Lee	: DECISION ON REQUEST FOR
Patent Number	: 7652873	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/203,300	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,311	08/15/2005	Jang-Chi Huang	P05105	8364

40401 7590 06/16/2010
Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

EXAMINER
NAGPAUL, JYOTI

ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
06/16/2010	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):

USPTO@hershkovitz.net
patent@hershkovitz.net

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United States Patent and Trademark Office
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wk

JUN 16 2010

In re application of Huang et al. Serial No. 11/203,311 Filed: August 15, 2005 For: VITRIFICATION APPARATUS FOR MICRODROP VITRIFICATION OF CELLS AND A METHOD OF MICRODROP VITRIFICATION OF CELLS USING THE APPARATUS	: : : :	DECISION ON PETITION

This is a decision on the request filed on October 14, 2009. The request is to reset the response period from the Restriction Requirement mailed July 14 2009 to run from the date of receipt of the Restriction Requirement by Applicant's attorney of record, September 25, 2009.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

A review of the petitioner's evidence indicates that the request has merit. The Petition is filed within the two week period following the receipt of the Office Action. A substantial portion (27 days) of the three-month reply period has lapsed between the mailing and the receipt of the Office Action.

The Petition is **GRANTED**.

The period for response will run from the date of receipt of the Office Action by Applicant's attorney, September 25, 2009. Applicant responded to the Restriction Requirement on October 14, 2009 and paid an extension fee. Applicants request a refund of the extension fee based on the receipt date of September 25, 2009 rather than the date of July 14, 2009.

The time period for response will be set from September 25, 2009 and Applicants' fee will be refunded.

/JACQUELINE STONE/

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

Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria VA 22314

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DEC 14 2007

OFFICE OF PETITIONS

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

In re Application of	:	
Huang, HSU-TING, et al	:	
Application No. 11/203,329	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799108-1	:	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 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, All applications have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Sheppard & Mullin, does not meet any of the conditions set forth in 37 CFR 10.40, Cadence's identity is not clear.

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

There an outstanding Office action mailed November 21, 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: SHEPPARD MULIN RICHTER &
HAMPTON, LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CA 90071-1448

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JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

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FEB 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Hsu-Ting HUANG, et al	:	
Application No. 11/203,329	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799108-1	:	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 December 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 Jerry R. Potts on behalf of all attorneys of record who are associated with customer No. 33651.

All attorneys/agents associated with Customer Number 33651 have been withdrawn.

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

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: INVARIUM, INC.
1754 TECHNOLOGY DRIVE,
SUITE 117
SAN JOSE, CA 95110

cc: SHEPPARD, MULLIN, RICHTER
& HAMPTON, LLP
12275 EL CAMINO REAL
SAN DIEGO, CA 92130

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,329	08/13/2005	Hsu-Ting Huang	799108-1

CONFIRMATION NO. 1273

POWER OF ATTORNEY NOTICE

33651
JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

OC000000028131506

Date Mailed: 02/05/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/22/2007.

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

/dcgoodwyn/

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

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JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO CA 92029

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Abdurrahman Sezginer, et al.	:	
Application No. 11/203,330	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799109-1	:	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 October 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "the application have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Sheppard & Mullin", does not meet any of 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 undersigned at 571-272-1642.

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

cc: SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

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JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

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In re Application of	:	
Abdurrahman Sezginer, et al.	:	
Application No. 11/203,330	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799109-1	:	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 May 3, 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 Jerry R. Potts on behalf of all attorneys of record who are associated with customer No. 33651.

All attorneys/agents associated with the Customer Number 33651 have been withdrawn.

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

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

There is an outstanding Office action mailed May 23, 2008 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: INVARIUM, INC.
1754 TECHNOLOGY DRIVE
SUITE 1
SAN JOSE, CA 95510

cc: SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
12275 EL CAMINO REAL
SAN DIEGO, CA 92130

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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
11/203,330	08/13/2005	Abdurrahman Sezginer	799109-1

CONFIRMATION NO. 1275

POWER OF ATTORNEY NOTICE

33651
JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

OC000000030213047

Date Mailed: 05/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/01/2008.

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

/amwise/

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

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ESCONDIDO CA 92029

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OFFICE OF PETITIONS

In re Application of
Hsu-Ting Huang, et al.
Application No. 11/203,331
Filed: August 13, 2005
Attorney Docket No. 799107-1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "the application have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Sheppard & Mullin", does not meet any of 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

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JAGTIANI + GUTTAG
10363-a DEMOCRACY LANE
FAIRFAX VA 22030

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OFFICE OF PETITIONS

In re Application of :
Virginia Lorraine Huthoefer et al :
Application No. 11/203,394 : ON PETITION
Filed: August 12, 2005 :
Attorney Docket No. PATR-0006-UT1 :

This is a decision on the petition filed March 25, 2009, under 37 CFR 1.137(a), or, in the alternative, under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.137(a) to revive the above-identified application is **DISMISSED**.

The petition under 37 CFR 1.137(b) to revive the above-identified application is **GRANTED**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (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 lack(s) item(s) 3.

The application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed November 10, 2005.

Petitioner states that, "Due effects of Hurricane Katrina on August 29, 2009 (error in year), the offices of Applicant's Prior Counsel were heavily damaged, apparently resulting in the loss of records for the present application and apparently resulting in Applicants' Prior Counsel ceasing to conduct business at these offices."

The evidence submitted with the petition under 37 CFR 1.137(a) is not convincing to substantiate an unavoidably delay manner. Namely, it is not clear as to why applicant would wait until 2008 to sought new counsel, after, (as indicated in the above petition) numerous calls were made to applicant's prior counsel and not returned.

---

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

As to the petition under 37 CFR 1.137(b):

The petition under 37 CFR 1.137(b) to revive the above-identified application, is **GRANTED**.

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

The required petition fee of $810.00 (small entity) for the petition under 37 CFR 1.137(b) has been charged to Deposit Account No. 10-0233 as authorized.

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

The application file is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

MAY 2 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Arie DEN BOEF, et *al.*	:	
Application No. 11/203,418	:	DECISION GRANTING PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1857.7930001**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Jason D. Eisenberg appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Eisenberg 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. Eisenberg, 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.

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

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

AT & T Legal Department - WS
Attn: Patent Docketing
Room 2A-207
One AT & T Way
Bedminster NJ 07921

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
James A. Gardner et al.	:	
Application No. 11/203,420	:	DECISION ON PETITION
Filed: August 12, 2005	:	PURSUANT TO
Attorney Docket No.: 2002-0010CIP	:	37 C.F.R. § 1.137(B)
Title: ASYMMETRIC DATA MIRRORING	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 10, 2008, to revive the above-identified application.

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

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 12, 20008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on August 13, 2008. A Notice of Abandonment was mailed on September 4, 2008.

1 See MPEP § 710.02(e)(III).

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

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

With this petition, Petitioner has submitted the petition and issue fees, along with the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries

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2 See Rule 1.137(d).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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.[4] 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 the delay was intentional, Petitioner must notify the Office.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Gary H. Monka
Canavan & Monka LLC
62 Grove Street
Somerville, NJ 08876

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4 See 37 C.F.R. § 10.18(b); cf. 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).

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

Mail Date: 04/20/2010

Applicant	: Peter Wiedemuth	: DECISION ON REQUEST FOR
Patent Number	: 7586210	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,433	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **87** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
INFINEON
PO BOX 10395
CHICAGO IL 60610

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of
Bernhardt et al.
Application No. 11/203,445
Filed: August 15, 2005
Attorney Docket No. 10808/263
Title: Carry-Ripple Adder

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 2, 2005 (certificate of mailing November 30, 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, 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.

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), rule 47 applicant has failed to show that inventor Bernhardt was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors. See MPEP 409.03(d). The declaration of Oliver Hassa indicates only the declaration, power of attorney and assignment documents were sent. If inventor Bernhardt is located the application papers (specification, including claims, drawings, and oath or declaration) must be presented.

To the extent rule 47 applicant contends that they are unable to locate inventor Bernhardt, evidence to support such a finding has not been presented. Where an inventor cannot be located/reached as in the case of inventor Bernhardt, 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 "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. Once it was determined that the address provided by inventor Winifred for inventor Bernhardt, what diligent effort did rule 47 applicant make to locate inventor Bernhardt. 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

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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APR 14 2006

OFFICE OF PETITIONS

In re Application of Bernhardt et al. Application No. 11/203,445 Filed: August 15, 2005 Attorney Docket No. 10808/263 Title: Carry-Ripple Adder	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 13, 2006.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **Dismissed As Moot** . This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
P.O. BOX 1294
TARPON SPRINGS, FL 34688-1294

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of :
Yuji Mizuno :
Application No. 11/203,452 :
Filed: August 12, 2005 :
Attorney Docket No. 1582.37 :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed April 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 28, 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 issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

3-3-08 IFW DAC

Practitioner's Docket No. 1582.37

PATENT

O I P E IAP68 FEB 29 2008 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: MIZUNO, Yuji
Patent No.: 7,074,338
Issued: July 11, 2006
Application No.: 11/203,452
Filed: 08/12/2005
For: FILTERING METHOD AND FILTERING DEVICE

Group No.: 1724
Examiner: R. J. Popovics

06/25/2008 CKHLOK 00000002 503368 11203452
01 FC:2453 770.00 DA

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

Adjustment Date: 06/25/2008 CKHLOK
03/04/2008 SSITHIB2 00000064 503368 7074338
01 FC:2453 770.00 CR

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b) AND FOR ACCEPTANCE OF LATE PAYMENT OF ISSUE FEE

1. This application issued as a patent on July 11, 2006 but technically was considered an abandoned application as the issue fees were not taken from the undersigned representative deposit account due to a clerical error in failing to note the deposit account number 503368 on the timely submitted PTOL-85B form.

2. This application became abandoned because although a timely filed PTOL-85B form was timely mailed by express mail EQ 801592536 US on May 18, 2006 and included a certificate of mailing that indicated that the papers enclosed included a PTOL-85B Issue Fee Transmittal Form. However, the undersigned checked off that the following allowance fees were enclosed (issue fee, publication fee and advance order fee for 3 copies of patent), however, the undersigned apparently failed to indicate the deposit account number 503368 from which to take the funds.

   The form clearly shows the undersigned intent to make the payment on May 18, 2006. The patent was issued as US Patent No. 7,074,338 on July 11, 2006 and the undersigned has been unable to reconcile his deposit account since the payment. The failure to add the deposit account no. 503368 was clerical in nature and should not happen again as all future PTOL-85B submissions are now being made through the EFS system. Accordingly, the administrative failure to include the deposit account number was unintentional .

3. Response or action required is attached.

   In connection with the required reply which is required by this petition, please note that the required issue fee and publication fee or any portion thereof **totaling $1020.00** is to be taken from deposit account 503368. The petition fee as well is to be taken from deposit account 503368. Upon further research, it appears that the undersigned never received the extra copies ordered on the PTOL-85B form, therefore, there is no longer a need to order advance copies of the patent.

4. Fee (37 C.F.R. § 1.17(m))

   Application status is small business entity—fee $770.00. A statement was filed and is in the File Wrapper.

03/03/2008 EFLORES1 00000003 503368 11203452
01 FC:2501 720.00 DA
02 FC:1504 300.00 DA

03/04/2008 SSITHIB2 00000064 503368 7074338
01 FC:2453 770.00 DA

5. **Payment of fee**

Authorization is hereby made to charge the petition fee amount of $770.00 as well as the issue fee and publication fee totaling of $1020.00 to Deposit Account No. 503368.

In addition, please charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate copy of this petition is attached.

Date: 2/29/08

Signature of person making statement that abandonment was due to unintentional delay

DENNIS G. LAPOINTE
Attorney of Record

Date: 2/29/08

Reg. No.: 40,693
Tel. No.: 727-943-9300
Customer No.: 24040

Signature of Practitioner
DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
P.O. BOX 1294
TARPON SPRINGS, FL 34688
US

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

Mail Date: 04/21/2010

Applicant	: Susumu Yoshida	: DECISION ON REQUEST FOR
Patent Number	: 7613383	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,457	: 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 **1020** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Susumu Yoshida
Patent Number : 7613383
Issue Date : 11/03/2009
Application No : 11/203,457
Filed : 08/11/2005

: 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 **1098** 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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MORGAN LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

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DEC 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
David H. Gelfand et al	:
Application No. 11/203,461	: DECISION GRANTING PETITION
Filed: August 11, 2005	: UNDER 37 CFR 1.10(c)
Attorney Docket No. 060349-5001-US03	:

This is a decision on the petition under 37 CFR 1.10(c), filed October 6, 2005, requesting that the above-identified application be accorded a filing date of August 11, 2005, rather than the presently accorded date of August 12, 2005.

Applicants request 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 11, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 553727920 US showing a "date-in" of August 11, 2005 and a stamped postal date of August 11, 2005. The same Express Mail receipt number was placed on the original patent application Utility Patent Application Fee Transmittal.

In view of the evidence of record, it is concluded that the application was deposited in Express Mail service on August 11, 2005. Accordingly, the instant application is entitled to a filing date of August 11, 2005, and has been so accorded.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3218.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of August 11, 2005. Afterwards, the matter will be referred to Technology Center AU 1645 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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OFFICE OF PETITIONS

In re Application of	:	
David H. Gelfand, et al.	:	
Application No. 11/203,461	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 60349-5001-US03	:	FROM RECORD
	:	

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 4, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

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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Angus C. Fox, III
4093 N. Imperial Way
Provo UT 84604-5386

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MAY 14 2010

OFFICE OF PETITIONS

In re Application of	:	
David C. Steed, Jr. et al.	:	
Application No. 11/203,473	:	ON PETITION
Filed: August 11, 2005	:	
Attorney Docket No. Max04-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned 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 November 7, 2008, and a one (1) extension 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 February 8, 2008. See MPEP 1215.04.

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) (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 37 CFR 1.137(b) was unintentional" was not included with the petition.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson

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
www.uspto.gov

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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FEB 01 2007

OFFICE OF PETITIONS

In re Application of Weder, et al. Application No. 11/203,483 Filed: August 12, 2005 Attorney Docket No. 8404.277	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 September 27, 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 **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3644 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/203,483	08/12/2005	3644	1200	8404.277	16	18	4

CONFIRMATION NO. 8258

CORRECTED FILING RECEIPT

OC000000022106414

30589
DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

Date Mailed: 01/23/2007

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)

Donald E. Weder, Highland, IL;
Joseph G. Straeter, Highland, IL;
Paul Fantz, Imperial, MO;

Power of Attorney:

Jerry Dunlap--17146
Glen Burdick--24230
Charles Codding--25099
Christopher Corbett--36109
Quentin Rakestraw--36897
Nicolas Rouse--36992
Sue Watson--38850

Domestic Priority data as claimed by applicant

This application is a CON of 10/676,475 10/01/2003 ABN
which is a CON of 10/303,373 11/22/2002 PAT 6,655,086
which is a CON of 10/190,278 07/03/2002 PAT 6,523,305
which is a CON of 10/004,991 12/04/2001 PAT 6,477,804
which is a CON of 09/747,227 12/22/2000 PAT 6,341,446
which is a CON of 09/080,771 05/18/1998 PAT 6,182,395
which is a CON of 08/606,957 02/26/1996 ABN
This application 11/203,483
is a CIP of 11/110,250 04/20/2005
which is a CON of 10/780,084 02/17/2004 ABN
which is a CON of 10/325,103 12/19/2002 PAT 6,691,458
which is a CON of 10/051,116 01/17/2002 PAT 6,701,667
which is a CON of 09/895,302 06/29/2001 PAT 6,343,456
which is a CON of 09/626,375 07/26/2000 ABN
which is a CON of 09/366,630 08/03/1999 PAT 6,192,657

which is a CON of 09/025,090 02/17/1998 PAT 5,930,979
which is a CON of 08/775,516 01/02/1997 PAT 5,740,658
which is a CON of 08/460,180 06/02/1995 PAT 5,617,703
which is a CON of 08/237,078 05/03/1994 PAT 5,625,979
which is a CIP of 08/220,852 03/31/1994 PAT 5,572,851

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 US11/203,483

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of covering a potted plant or floral grouping with a floral sleeve

Preliminary Class

047

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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DEC 1 4 2007

OFFICE OF PETITIONS

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, C 92029

In re Application of	:	
Aburraham SEZGINER, et al	:	
Application No. 11/203,498	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799106-1	:	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 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, All applications have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Sheppard & Mullin, does not meet any of the conditions set forth in 37 CFR 10.40, Cadence's identity is not clear.

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

There are no outstanding Office actions at the present time. .

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SHEPPARD MULIN RICHTER &
HAMPTON, LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CA 90071-1448

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JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

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OFFICE OF PETITIONS

In re Application of	:	
Abdurrahman SEZGINER, et al	:	
Application No. 11/203,498	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799106-1	:	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 December 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 Jerry R. Potts on behalf of all attorneys of record who are associated with customer No. 33651.

All attorneys/agents associated with Customer Number 33651 have been withdrawn.

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

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: INVARIUM, INC.
1754 TECHNOLOGY DRIVE,
SUITE 117
SAN JOSE, CA 95110

cc: SHEPPARD, MULLIN, RICHTER
& HAMPTON, LLP
12275 EL CAMINO REAL
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,498	08/13/2005	Abdurrahman Sezginer	799106-1

CONFIRMATION NO. 9016

POWER OF ATTORNEY NOTICE

33651
JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

OC000000028118674

Date Mailed: 02/05/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/22/2007.

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

/dcgoodwyn/

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

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SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES CA 90071-1448

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DEC 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Sezginer et al.	:	
Application No. 11/203,498	:	ON PETITION
Filed: August 13, 2005	:	
Attorney Docket No. 041Y-133474	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 15, 2008. A Notice of Abandonment was mailed October 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, including a terminal disclaimer and fee of $140; (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 2825 for further examination on the merits.

/SDB/

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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RONALD B. SEFRNA
SEFRNA & ASSOCIATES
P.O. BOX 567
TYLER TX 75710

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Roger D. Lewis	:	
Application No. 11/203,499	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 05SAPAT16	:	FROM RECORD
	:	

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

The request is **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 Ronald B. Sefrna, the sole attorney of record.

Ronald B. Sefrna have been withdrawn as attorney of record.

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

All future correspondence will be directed to the inventor Roger D. Lewis at the address indicated below.

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

April Wise
Petitions Examiner
Office of Petitions

cc: Roger D. Lewis
14824 F 130
Hughes Springs, TX 75656

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 14 2006
OFFICE OF PETITIONS

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

In re Application of	:
Eliezer, et al.	:
Application No. 11/203,504	: DECISION GRANTING
Filed: August 11, 2005	: PETITION
Attorney Docket No. 12411.0040	:

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 26, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to submit a fully executed oath or declaration in response to the Notice to File Missing Parts, mailed September 14, 2005. This Notice set an extendable period for reply of two (2) months for applicants to a declaration containing the signature of joint inventor Cruise, together with the surcharge for its late filing. No extensions of time were obtained. No reply having been received, the application became abandoned on November 15, 2005. A Notice of Abandonment was mailed on May 23, 2006.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted a declaration executed by Cruise, together with the late surcharge.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FEB 21 2008

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO CA 92029

In re Application of	:	
SEZGINER, Abdurrahman	:	
Application No. 11/203,505	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. **799110-1**	:	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 October 28, 2007.

The request is **NOT APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHEPPARD MULLIN RICHTER & HAMPTON LLP**
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CA 90071-1448

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.
11/203,507	08/15/2005	Tsutomu Hirasawa	276879US6	1567

22850 7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
KORZUCH, WILLIAM R

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,507	08/15/2005	Tsutomu Hirasawa	276879US6	1567

7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
KORZUCH, WILLIAM R

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref: 0030049646
01/24/2008

Credit Card Refund Total: $700.00

Am Exp..: XXXXXXXXXXX1003

FORM PET651G (Rev. 08/07)

Notice of Abandonment	Application No.	Applicant(s)	
	11/203,507	HIRASAWA, TSUTOMU	
	Examiner	Art Unit	
	Korzuch, William	2627	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

/Rick Clemons/ □□Administrative Assistant□□Art Unit: 3900

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

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DEC 2 2 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Simms et al.	:	
Application No. 11/203,509	:	DECISION ON PETITION
Filed: August 12, 2005	:	PURSUANT TO
Attorney Docket No.: Z-03460C/4270	:	37 C.F.R. § 1.137(B)
Title: SAFETY RAZORS WITH CHARGE INDICATOR AND POWER SWITCH	:	

This is a decision on the petition filed November 4, 2009, pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed September 3, 2009, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were available. Accordingly, the above-identified application became abandoned on November 4, 2009. A notice of abandonment was mailed on November 13, 2009, subsequent to the filing of this petition.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R § 1.17(m);

(2) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(3) Any terminal disclaimer (and fee as set forth in 37 C.F.R § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, corrected drawings, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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.**

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

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	: Graham John Simms	: DECISION ON REQUEST FOR
Patent Number	: 7654003	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,509	: 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 **262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of
Marcus Theodore.
Application No. 11/203,514
Filed: August 12, 2005
Title: HYBRID CHEMICAL/MECHANICAL DEWATERING METHOD FOR SEWAGE TREATMENT PLANTS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 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 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 22, 2008. Accordingly, the date of abandonment of this application is July 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREWS & KURTH, L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON TX 77002

MAY 23 2006

In re Application of:	:	
DUNN, JAMES L.	:	DECISION ON PETITION
Serial No.: 11/203,515	:	TO MAKE SPECIAL
Filed: August 12, 2005	:	
Docket No.: **JLD001/161081**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 12, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the applicant, James L. Dunn, stating that he 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. If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and

Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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GEORGE F. HELFRICH
162 SHASTA DRIVE
NEWPORT NEWS, VA 23608

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Watkins, et al.	:	DECISION ON PETITION
Application No. 11/203,518	:	
Filed: August 12, 2005	:	
Docket No.: LAR 16117-1-SB	:	

This is a decision on the petition under 37 CFR 1.182, filed August 12, 2005.

In accordance with 37 CFR 1.182, "[a]ll situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h)."

The above-identified application was filed August 12, 2005 and was accompanied by the instant petition under 37 CFR 1.182.

Petitioners' request to proceed with more than one attorney appointed to represent the various joint inventors. The petition seeks to require any and all communications submitted in the above-identified application be co-signed by the Untied States Government attorney.

The petition identifies the applicants as: Anthony Neal Watkins, Jacqueline L. Schryer, Jerry C. Summers, Jeffrey D. Jordan, Bradley D. Leighty, and Patricia P. Davis.

The application is accompanied by a declaration identifying the inventive entity as Anthony Neal Watkins, Jacqueline L. Schryer, and Jerry C. Summers, and has been executed by said individuals.

The application is also accompanied by a declaration/power of attorney wherein the inventive entity is identified as: Jeffrey D. Jordan, Anthony N. Watkins, Jacqueline L. Schryer, Bradley D. Leighty, Patricia P. Davis, and Jerry C. Summers. The declaration/power of attorney has been executed by Jeffrey D.

Jordan, Bradley D. Leighty, and Patricia P. Davis. The declaration/power of attorney appoints a power of attorney to the practitioners associated with Customer No. 23351.

The petition under 37 CFR 1.182 indicates that Jeffrey D. Jordan, Bradley D. Leighty, and Patricia P. Davis seek to be represented by the practitioners associated with Customer No. 23351. The petition further indicates that Anthony Neal Watkins and Jacqueline L. Schryer seek to be represented by George F. Helfrich. No properly executed power of attorney to this effect has been submitted.

The petition further indicates that the United States Government attorney will co-sign all replies.

The declaration submitted herewith will not be entered as it fails to properly set forth the entire inventive entity.

The "declaration/power of attorney" submitted herewith will not be entered as it fails to comply with 37 CFR 1.63 in that it has not been properly executed by each inventor named therein.

The request for permission to proceed with the appointment of more than one attorney cannot be granted at the present time as there has been no proper oath or declaration submitted to date; i.e., the declaration/power of attorney has been executed by less than all inventors named therein.

The "declaration" submitted herewith will not be entered as it fails to set forth the entire inventive entity.

Accordingly, petitioners are required to submit a properly executed oath or declaration setting forth the entire inventive entity in accordance with 37 CFR 1.63.

Petitioners should submit properly executed power of attorney(s) with the requested appointments expressly set forth therein; i.e., an executed power of attorney for each attorney seeking appointment.

Furthermore, petitioners should clarify the purpose of petitioners' request that the United States Government attorney co-sign all replies.

For the reasons set forth herein, the petition under 37 CFR 1.182 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 1.182." This is not a final agency decision.

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

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

This application is being directed to the Office of Initial Patent Examination with a request for prompt issuance of a Notice to Files Missing Parts.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Watkins, et al. : DECISION ON PETITION
Application No. 11/203,518 :
Filed: August 12, 2005 :
Docket No.: LAR 16117-1-SB :

This is a decision on the renewed petition under 37 CFR 1.182, filed February 1, 2006.

In accordance with 37 CFR 1.182, "[a]ll situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h)."

The above-identified application was filed August 12, 2005 and was accompanied by a petition under 37 CFR 1.182. The petition was dismissed September 27, 2005 for failing to set forth sufficient grounds for consideration under 37 CFR 1.182.

Petitioners appear to be unable to procure the signatures of each of the six inventors named in the instant application on one single declaration. This is presumed by virtue of the fact that the declaration submitted February 1, 2006 is not executed by each inventor named therein. As this is a "situation" otherwise provided for the in regulations, specifically covered under the provisions of 37 CFR 1.47, the instant petition is subject to dismissal.

As to petitioners request regarding the appointment of more than one attorney, petitioners' attention is directed to MPEP 402.10 wherein it sets forth in pertinent part that:

> [p]apers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of

> attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(h) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney.

For the reasons set forth herein, the petition under 37 CFR 1.182 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 1.182." This is not a final agency decision. No further consideration is deemed necessary in view of the foregoing. Accordingly, further request for reconsideration under 37 CFR 1.182 absent persuasive argument may result in the rendering of a final agency decision.

This application is being directed to the Office of Initial Patent Examination with a request for prompt issuance of a Notice to Files Missing Parts.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Watkins, et al. : DECISION
Application No.: 11/203,518 :
Filed: August 12, 2005 :
Docket No.: LAR 16117-1-SB :

This decision is in response to the petition renewed under 37 CFR 1.183 to waive the requirements of 37 CFR 1.36(a), filed September 21, 2006.

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.36(a) is hereby **GRANTED**.

A grantable petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.36(a) requires that petitioners establish that this is an extraordinary situation where justice requires waiver of the rules.

Moreover, in accordance with MPEP 402.10, "[p]apers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney." Further, the acceptance of such papers by petition under 37 CFR 1.36(a) or 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988).

Petitioners' arguments have been carefully reviewed and found persuasive. It is noted that the declaration submitted August 12, 2005 properly sets forth the entire inventive entity and is

executed by three of the six inventors named therein and the declaration submitted February 2, 2006 properly sets forth the entire inventive entity and is executed by the other three inventors named therein.

Accordingly, extraordinary circumstances having been sufficiently established, effective the mail date set forth above, hereinafter, all submissions concerning the above-referenced application must be signed by the attorney representing inventors A.N. Watkins, J. Schryer, and J.C. Summers, namely, practitioner G. Helfrich, and must be signed by the attorney representing inventors J.D. Jordan, B.D. Leighty, and P.P. Davis, namely, practitioners associated with Customer Number 23351. *See*, *In re Goldstein*, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). Each attorney or agent signing subsequent papers must indicate whom he or she represents. No dual correspondence will be accepted. All correspondence will continue to be directed to practitioner G. Helfrich.

The application file is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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13 MAY 2008

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

In re Application of ANDRÄ	:	
U.S. Application No.: 11/203,519	:	
PCT Application No.: PCT/DE2004/000460	:	
Int. Filing Date: 05 March 2004	:	
Priority Date Claimed: 07 March 2003	:	DECISION
Attorney Docket No.: F-8770	:	
For: ARRANGEMENT FOR REMOTE-CONTROLLED RELEASE OF ACTIVE INGREDIENTS	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.181(a)(3) to Invoke Supervisory Authority" filed 08 May 2008.

BACKGROUND

On 05 March 2004, applicant filed international application PCT/DE2004/000460, which claimed priority of an earlier Germany application filed 07 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 07 September 2005.

On 11 August 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was treated as a non-provisional application filed under 35 U.S.C. 111(a).

On 08 May 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the present application was properly identified as a U.S. national phase application under 35 U.S.C. 371. However, the application was inadvertently processed as an application filed under 35 U.S.C. 111(a).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 05 March 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 11 August 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) and a corrected Filing Receipt.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Uckun :
Filed: August 12, 2005 : ON PETITION
Application No. 11/203,521 :
Atty. Dkt. No.: 12152.0109USD1 :

This decision in response to the "PETITION UNDER 37 CFR 1.182" filed September 23, 2005.

The petition is hereby **DISMISSED**.

The application was filed August 12, 2005. The Notice of Omitted Item(s) in a Nonprovisional Application (Notice) mailed September 1, 2005 indicated that the application had been accorded a filing date but that pages 19-21 appeared to have been omitted from the application papers submitted.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted with the application papers or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee) under 37 CFR 1.182.

Petitioner does not argue that the pages in question were submitted with the application papers on August 12, 2005 nor does petitioner argue that the pages in question are not necessary for a filing date. Instead, petitioner indicates that the instant application is a divisional filing, presumably of U.S. App. No. 09/713,780. Petitioner herein argues that pages 19-21 of the specification are part of the disclosure of U.S. App. No. 09/713,780, said disclosure having been incorporated by reference upon filing of the instant application.

It is noted that the first page of specification for the instant application includes an incorporation by reference statement. An incorporation by reference statement may be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the

submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), *without* the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Based on petitioner's representation that the pages in question are part of the disclosure of application No. 09/713,780, the entire disclosure of said application having been specifically incorporated by reference in the present application on August 12, 2005, it appears that pages 19-21 were present in the Office on August 12, 2005, albeit in the file of another application, i.e., the application referenced in the incorporation by reference statement. Therefore, the application has been accorded a filing date of August 12, 2005.

Petitioner, however, is advised, if petitioner has not already done to, to promptly submit a further preliminary amendment requesting entry of the omitted pages of specification prior to the issuance of the first Office action on the merits to avoid delays in examination.

A newly executed oath or declaration under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application would not be required with the preliminary amendment, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1).

The required petition fee of $400.00 will not be refunded since the petition was necessary to correct petitioners' filing error.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 12, 2005 using only the papers present on that day and without entry of pages 19-21 into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FEB 29 2008

In re Application of	:	
Abdurrahman Sezginer et al.	:	
Application No. 11/203,522	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799103-1	:	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 October 28, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***all applications have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Sheppard & Mullin***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sheppard Mullin Richter & Hampton LLP**
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448

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Jerry Richard Potts
3248 Via Ribera
Escondido, CA 92029

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Abdurrahman Sezginer, et al.	:	
Application No. 11/203,522	:	DECISION ON PETITION
Filed: August 13, 2005	:	TO WITHDRAW
Attorney Docket No. 799103-1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2008.

The request is **APPROVED**.

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

The request was signed by Jerry R. Potts on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Abdurrahman Sezinger**
105 Forest Hill Drive
Los Gatos, CA 95032

cc: **Sheppard, Mullin, Richter & Hampton, LLP**
12275 El Camino Real
San Diego, CA 92130

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,522	08/13/2005	Abdurrahman Sezginer	799103-1

CONFIRMATION NO. 1579

POWER OF ATTORNEY NOTICE

33651
JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

OC000000030429186

Date Mailed: 06/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2008.

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

/tswilliams/

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

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SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES CA 90071-1448

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FEB 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Sezinger et al.	:	DECISION ON PETITION
Application Number: 11/203522	:	
Filing Date: 08/13/2005	:	
Attorney Docket Number: 041Y-133477	:	

This is a decision on the petition filed on December 19, 2008, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 12, 2008, for failure to timely submit corrected drawings as required by the Notice of Allowability mailed on August 11, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on December 5, 2008.

---

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

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

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

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

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

Receipt of the corrected drawing sheet filed with the present petition is acknowledged.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The application is referred to the Office of Data Management for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ST ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD ST
STAMFORD CT 06905-5619

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Lynn David Bollinger, Iskander	:	
Tokmouline	:	
Application No. 11/203,524	:	DECISION REFUSING
Filing Date: August 12, 2005	:	STATUS UNDER § 1.47(a)
Attorney Docket No. 04380-P0003C	:	
	:	

This is a decision in response to the petition under 37 CFR 1.47(a), filed December 23, 2005.

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 inventors. **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, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on September 20, 2005. This Notice set an extendable period for reply of two months. On December 23, 2005, applicants filed the instant petition, made timely by obtaining a one month extension of time and including a Certificate of Mailing dated December 20, 2005.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because it contains a non-initialed, non-dated alteration to the citizenship of inventor Lynn David Bollinger.[1] Regarding this, the Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."[2]

On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.

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

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

---

[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] MPEP 605.04(a).

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

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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ST ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD ST
STAMFORD CT 06905-5619

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Lynn David Bollinger, Iskander	:	
Tokmouline	:	
Application No. 11/203,524	:	DECISION REFUSING
Filing Date: August 12, 2005	:	STATUS UNDER § 1.47(a)
Attorney Docket No. 04380-P0003C	:	
	:	

This is a decision in response to the renewed petition under 37 CFR 1.47(a), filed February 6, 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 inventors. **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, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on September 20, 2005. This Notice set an extendable period for reply of two months. On December 23, 2005, applicants filed the instant petition, made timely by obtaining a one month extension of time and including a Certificate of Mailing dated December 20, 2005. However, the petition was dismissed in a decision mailed on January 13, 2006. The declaration contained an non-dated, non-initialed alteration to the citizenship of inventor Bollinger, and was therefore not acceptable.[1]

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), a further review of the record reveals that applicants have at no time submitted a declaration identifying Iskander Tokmouline as a joint inventor. The declarations previously filed only identify Lynn David Bollinger. Pursuant to 37 CFR 1.63, the declaration must identify the full name of all inventors, together with their citizenship. If not supplied in an ADS, the declaration must also contain the mailing mailing address and residence of each inventor. An oath or declaration signed by inventor Bollinger with the signature block for Tokmouline left blank will be treated as having been signed by Tokmouline.[2] **On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.**

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

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

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[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] See MPEP 409.03(a).

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

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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MAY 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Lynn David Bollinger, Iskander	:	
Tokmouline	:	
Application No. 11/203,524	:	DECISION ACCORDING
Filing Date: August 12, 2005	:	STATUS UNDER § 1.47(a)
Attorney Docket No. 04380-P0003C	:	
	:	

This is a decision in response to the renewed petition under 37 CFR 1.47(a), filed April 20, 2006.

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

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 non-signing inventor Tokmouline at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to Group Art Unit 2823 for examination in due course.

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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ISKANDER TOKMOULINE
67 RITA DR
NEW FAIRFIELD CT 06812

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of Lynn David Bollinger, Iskander Tokmouline Application No. 11/203,524 Filed: August 12, 2005 Title: Atmospheric Process and System for Controlled and Rapid Removal of Polymers from High Aspect Ratio Holes	LETTER

Dear Mr. Tokmouline:

You are named as a joint inventor in the above-identified United States patent reissue 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

Richard J. Basile
St Onge Steward Johnston & Reens
986 Bedford St
Stamford CT 06905-5619
phone: 203-324-6155

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARTHUR FREILICH
9045 CORBIN AVE, #260
NORTHRIDGE CA 91324-3343

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of :
LEBEL, et al. :
Application No. 11/203,532 : DECISION ON PETITION
Filed: August 12, 2005 : TO WITHDRAW
Attorney Docket No. 203/506 US: MA-130 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 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 Arthur Freilich 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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Ronald J. Lebel**
14625 Lacota Place
Sherman Oaks, CA 91403

cc: Advanced Bionics Corporation
ATTN: BRYANT R. GOLD
25129 Rye Canyon Loop
Valencia, CA 91355

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/17/2010

Applicant	: Daewoong Suh	: DECISION ON REQUEST FOR
Patent Number	: 7628871	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/203,546	: 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 **741** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 9206
NEWARK DE 19714-9206

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OFFICE OF PETITIONS

In re Application of
Blake et al.
Application No. 11/203,553
Filed: August 12, 2005
Attorney Docket Number: FA/285

DECISION ON PETITION

This is a decision on the petition, filed July 16, 2008 which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to properly respond to the Office action of December 20, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 20, 2008. A Notice of Abandonment was mailed on June 27, 2008.

Petitioner states that a timely reply was mailed via electronic filing on June 20, 2008, which included the following papers: an amendment and three month extension of time.

Review of the file record shows the originally submitted reply sent on June 19, 2008 has been located.

Accordingly, the holding of abandonment for failure to timely file a proper reply to the Office action of December 20, 2007 is hereby withdrawn and the application restored to pending status.

This application is being referred to Art Unit 1794 for appropriate action in the normal course of business.

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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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
STURMTHAL, Robin	:	
Application No. 11/203,560	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. **101305.0001US1**	:	FROM RECORD
	:	

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, 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 Todd W. Wight on behalf of all attorneys of record who are associated with customer No. 34284. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There 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: **ROBIN STURMTHAL**
21091 TOPOCHICO DRIVE,
WOODLAND, HILLS CA 91364

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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Paper No. None

AMGEN INC.
1120 VETERANS BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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In re Application of :
Xi Chen, Xiaoqi Chen Richard :
Victor Connors, Kang Dai, Ying :
Fu, Juan C. Jaen, Yong-Jae Kim, :
Leping Li, Mike E. Lizarzaburu, :
Jeffery T. Mihalic, and Stephen :
J. Shuttleworth :
Application No. 11/203,562 :
Filed: August 12, 2005 :
Attorney Docket No. A-1038(US) :
Title: SUBSTITUTED BENZOFUSED :
HETEROCYCLES :

DECISION ON PETITION UNDER
37 C.F.R. §1.47(A)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed May 2, 2006.

On August 12, 2005, the application was deposited without an executed declaration, identifying Xi Chen, Xiaoqi Chen Richard

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1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

Victor Connors, Kang Dai, Ying Fu, Juan C. Jaen, Yong-Jae Kim, Leping Li, Mike E. Lizarzaburu, Jeffery T. Mihalic, and Stephen J. Shuttleworth as joint inventors. On September 20, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice further required the basic filing fee, additional claim fees, the search fee and examination fee, and set a two-month period for reply.

With the present petition, Petitioner has submitted the petition fee, the surcharge, a five-month extension of time to make timely this response, the basic filing fee, additional claim fees, the search fee, examination fee, and the fee associated with the filing of an application which exceeds one hundred pages in length. Petitioner has further included a declaration which has been executed by each of the joint inventors save Mr. Fu.

Petitioner has met requirements (1) - (3) of Rule 47(a).

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. Petitioner has set forth that the non-signing joint inventor cannot be found or reached, and as such, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor. Petitioner has asserted that several "electronic person locator services[2]" were used in an attempt to locate Mr. Fu, however Petitioner has not included a copy of the search results. Petitioner has revealed that several leads were obtained from the search, and each of these leads were explored, however without a copy of the search, the Office cannot ascertain whether the search was sufficiently broad so as to provide a reasonable chance of success.

Furthermore, it has not been made clear who performed the search, or who followed up on these leads. As such, the Office has no way of determining whether the statement which Petitioner has supplied in support of this petition was made by one having firsthand knowledge of the facts contained therein.

Regarding the fifth requirement of Rule 47(a), Petitioner has not submitted a declaration which complies with 37 C.F.R §1.63. The declaration submitted with the present petition contains non-dated changes by inventors Dai and Lizarzaburu[3].

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2 Petition, paragraph 3.

3 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

For the above reasons, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. 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
United States Patent and Trademark Office

---

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 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).

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

Paper No. None

AMGEN INC.
1120 VETERANS BOULEVARD
SOUTH SAN FRANCISCO CA 94080

COPY MAILED

DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Xi Chen, Xiaoqi Chen, Richard :
Victor Connors, Kang Dai, Ying :
Fu, Juan C. Jaen, Yong-Jae Kim, :
Leping Li, Mike E. Lizarzaburu, :
Jeffery T. Mihalic, and Stephen :
J. Shuttleworth :
Application No. 11/203,562 :
Filed: August 12, 2005 :
Attorney Docket No. A-1038(US) :
Title: SUBSTITUTED BENZOFUSED :
HETEROCYCLES :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed November 27, 2006.

On August 12, 2005, the application was deposited without an executed declaration, identifying Xi Chen, Xiaoqi Chen, Richard

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1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

Victor Connors, Kang Dai, Ying Fu, Juan C. Jaen, Yong-Jae Kim, Leping Li, Mike E. Lizarzaburu, Jeffery T. Mihalic, and Stephen J. Shuttleworth as joint inventors. On September 20, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice further required the basic filing fee, additional claim fees, the search fee, and the examination fee, and set a two-month period for response.

The original petition was filed on May 2, 2006, and was dismissed via the mailing of a decision on August 22, 2006, for failure to meet requirements (4) and (5) of Rule §1.47(a).

With this renewed petition, Petitioner has submitted a one-month extension of time to make timely this response, along with printouts of several online searches and a declaration.

Petitioner has met the fourth requirement of Rule §1.47(a).

Regarding the fifth requirement of Rule §1.47(a), the declaration that Petitioner has submitted on renewed petition cannot be accepted. The decision on the original petition set forth:

> Petitioner has not submitted a declaration which complies with 37 C.F.R §1.63. The declaration submitted with the present petition contains non-dated changes by inventors Dai and Lizarzaburu...See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a)
>
> Decision on original petition, page 1.

With this renewed petition, Petitioner has submitted a declaration where joint "inventors Dai and Lizaraburu have back dated their initialed address and name changes, respectively[2]."

Sometime between August 22, 2006 and November 27, 2006, inventors Dai and Lizaraburu backdated their alterations to the declaration, made on January 19, 2006 and November 17, 2005, respectively. This is not acceptable, as the addition of these dates subsequent to the execution of the declaration constitutes an alteration to the declaration. 37 C.F.R. §1.52(c)(1) indicates that "application papers containing alterations made after the signing of an oath or declaration referring to those

2 Renewed petition, page 1.

application papers must be supported by a supplemental oath or declaration under § 1.67."

MPEP §605.04(a) sets forth that "any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. (emphasis added)."

It follows that this renewed petition must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to consider preparing a declaration that contains the proper information for joint inventors Dai and Lizaraburu, and having these two individuals execute this declaration.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
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 Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

AMGEN INC.
1120 VETERANS BOULEVARD
SOUTH SAN FRANCISCO CA 94080

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

In re Application of Xi Chen, Xiaoqi Chen, Richard Victor Connors, Kang Dai, Ying Fu, Juan C. Jaen, Yong-Jae Kim, Leping Li, Mike E. Lizarzaburu, Jeffery T. Mihalic, and Stephen J. Shuttleworth Application No. 11/203,562 Filed: August 12, 2005 Attorney Docket No. A-1038(US) Title: SUBSTITUTED BENZOFUSED HETEROCYCLES	DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed February 20, 2007 (it is noted that February 18, 2007 fell on a Sunday, and the following day was a federal holiday).

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

On August 12, 2005, the application was deposited without an executed declaration, identifying Xi Chen, Xiaoqi Chen, Richard Victor Connors, Kang Dai, Ying Fu, Juan C. Jaen, Yong-Jae Kim, Leping Li, Mike E. Lizarzaburu, Jeffery T. Mihalic, and Stephen J. Shuttleworth as joint inventors. On September 20, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice further required the basic filing fee, additional claim fees, the search fee, and the examination fee, and set a two-month period for response.

The original petition was filed on May 2, 2006, and was dismissed via the mailing of a decision on August 22, 2006, for failure to meet requirements (4) and (5) of Rule §1.47(a). The renewed petition was filed on November 27, 2006, and was dismissed via the mailing of a decision on December 18, 2006, for failure to meet the fifth requirement of Rule §1.47(a): Petitioner submitted a duplicate of the declaration which had been submitted with the original petition, with back-dated changes made by joint inventors Dai and Lizaraburu, where each initialed address and name changes. The declaration could not be accepted.

With this second renewed petition, Petitioner has submitted a supplemental declaration, which has been signed by Messrs. Dai and Lizaraburu. However, this declaration cannot be accepted, since <u>it lists only these two individuals as the inventive entities</u>. Messrs. Chen, Chen, Connors, Fu, Jaen, Kim, Li, Mihalic, and Shuttleworth are not listed as inventors on this declaration.

It follows that this second renewed petition must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Third Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

<u>Petitioner may wish to consider preparing a declaration that contains the proper information for joint inventors Dai and Lizaraburu, and having these two individuals execute this declaration. This declaration must contain the names and pertinent information for every inventor, but need only be signed by Messrs. Dai and Lizaraburu</u>.

The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of Xi Chen, Xiaoqi Chen, Richard Victor Connors, Kang Dai, Ying Fu, Juan C. Jaen, Yong-Jae Kim, Leping Li, Mike E. Lizarzaburu, Jeffery T. Mihalic, and Stephen J. Shuttleworth Application No. 11/203,562 Filed: August 12, 2005 Attorney Docket No. A-1038(US) Title: SUBSTITUTED BENZOFUSED HETEROCYCLES	DECISION ON THIRD RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the third renewed petition under 37 C.F.R. §1.47(a)[1], filed May 3, 2007.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 C.F.R. §1.63.

The concurrently filed Power of Attorney and Change of Correspondence Address have been entered and made of record.

On August 12, 2005, the application was deposited without an executed declaration, identifying Xi Chen, Xiaoqi Chen, Richard Victor Connors, Kang Dai, Ying Fu, Juan C. Jaen, Yong-Jae Kim, Leping Li, Mike E. Lizarzaburu, Jeffery T. Mihalic, and Stephen J. Shuttleworth as joint inventors. On September 20, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice further required the basic filing fee, additional claim fees, the search fee, and the examination fee, and set a two-month period for response.

An original petition was filed on May 2, 2006, and was dismissed via the mailing of a decision on August 22, 2006, for failure to meet requirements (4) and (5) of Rule §1.47(a). A renewed petition was filed on November 27, 2006, and was dismissed via the mailing of a decision on December 18, 2006, for failure to meet the fifth requirement of Rule §1.47(a): Petitioner submitted a duplicate of the declaration which had been submitted with the original petition, with back-dated changes made by joint inventors Dai and Lizaraburu, where each initialed address and name changes. The declaration could not be accepted.

A second renewed petition was filed on February 20, 2007, and was dismissed via the mailing of a decision on March 28, 2007, as the declaration that was submitted failed to list each of the inventors, and listed only Messrs. Dai and Lizaraburu.

With this third renewed petition, Petitioner has submitted an acceptable declaration, and as such, each requirement of Rule § 1.47(a) has been met.

It follows that this third renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

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 present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

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

Ying Fu
1149 Willow Road
Apt. 5
Menlo Park, CA 94025

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Xi Chen, Xiaoqi Chen, Richard	:	
Victor Connors, Kang Dai, Ying	:	
Fu, Juan C. Jaen, Yong-Jae Kim,	:	
Leping Li, Mike E. Lizarzaburu,	:	
Jeffery T. Mihalic, and Stephen	:	
J. Shuttleworth	:	LETTER
Application No. 11/203,562	:	
Filed: August 12, 2005	:	
Attorney Docket No. A-1038(US)	:	
Title: SUBSTITUTED BENZOFUSED	:	
HETEROCYCLES	:	

Dear Mr. Fu:

You are named 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 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, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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 & HAYES, PLLC
MARGARET ANDERSON
601 WEST RIVERSIDE
SUITE 1400
SPOKANE WA 99201

COPY MAILED

OCT 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Albert D. Edgar	:	DECISION ON PETITION
Application No. 11/203,564	:	TO WITHDRAW
Filed: August 12, 2005	:	FROM RECORD
Attorney Docket No. SOZO0005	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 19, 2009.

The request is **NOT APPROVED**.

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

The request was signed by Margaret M. Anderson on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

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

Currently, there is an outstanding Office action mailed July 17, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
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
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LEE & HAYES, PLLC
MARGARET ANDERSON
601 WEST RIVERSIDE
SUITE 1400
SPOKANE WA 99201

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NOV 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Albert D. Edgar	:	DECISION ON PETITION
Application No. 11/203,564	:	TO WITHDRAW
Filed: August 12, 2005	:	FROM RECORD
Attorney Docket No. SOZO0005	:	

This is a decision on the renewed request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 22, 2009.

The request is **APPROVED**.

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

The request was signed by Margaret M. Anderson on behalf of all attorneys of record who are associated with Customer No. 55922.

All attorneys/agents associated with Customer Number 55922 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Currently, there is an outstanding Office action mailed July 17, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: SozoTek Inc.
C/O TCMS Technologies
1101 S. Capital of Texas Hwy.
Building K, Suite 100
Austin TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Roger Zimmermann	: DECISION ON REQUEST FOR
Patent Number	: 7584324	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,567	: 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 **699** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 15 2010

LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA MA 01821

In re Patent No. 7,582,689	: DECISION ON REQUEST
Chung, et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/203,568	: PATENT TERM ADJUSTMENT
Filed: August 12, 2005	: and
Atty. Docket No. 98079CIPDIVCON	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 30, 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 and ten (910) 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 and ten (910) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and ten (910) days**.

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

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,689 B2

DATED : Sep. 1, 2009

INVENTOR(S) : Chung, 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 (525) days

Delete the phrase "by 525 days" and insert – by 910 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROGER PITT
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK NY 10022-6030

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Lee	:	
Application No. 11/203,570	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 0807295.0134	:	FROM RECORD
	:	

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

The request to withdraw less than all attorneys appointed by customer number 00545cannot 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal, Esq.
Brown, Rudnick, Berlack, Israels, LLP
Seven Times Square
New York, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STO 202A-4
MOFFETT FIELD CA 94035-1000

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Jing Li et al	:	
Application No. 11/203,576	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. ARC-15460-1	:	

This is a decision on the petition, filed June 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner should be aware that the filing of the Notice of Intention to Correct Inventorship submitted with the above petition is not a proper submission to the request for continued examination filed June 15, 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) 273-0025
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
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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD CA 94035-1000

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JUL 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jing Li et al	:	
Application No. 11/203,576	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. ARC-15460-1	:	

This is a decision on the petition, filed June 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2856 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,576	08/05/2005	Jing Li	ARC-15460-1	8698

25186 7590 12/11/2007
NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

EXAMINER
FRANK, RODNEY T

ART UNIT	PAPER NUMBER
2856	

MAIL DATE	DELIVERY MODE
12/11/2007	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

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

In re Application of LI ET AL.
Appl. No.: 11/203,576
Filed: August 05, 2005
For: GAS COMPOSITION SENSING USING CARBON NANOTUBES ARRAYS

Decision on Petition Under
37 CFR 1.48(a)

This decision is in response to the petition filed June 29, 2007 in the above-identified application. The petition seeks to correct inventorship pursuant to 37 C.F.R. 1.48(a).

In view of the papers filed on June 29, 2007, it has been found that this application, as filed through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship in this application has been changed be deleting **John F. Schipper** as an inventor.

SUMMARY: THE PETITION IS GRANTED.

Hezron E. Williams, SPE
Patent Examining Technology Center

NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

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

WILLIAM G. AUTON
ESC/JAZ
40 WRIGHT STREET
HANSCOM AFB MA 01731-2903

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NOV 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Scott A. Shackeflford	:	
Application No. 11/203,577	:	DECISION ON PETITION
Filed: August 10, 2005	:	TO WITHDRAW
Attorney Docket No. AFB00737	:	FROM RECORD
	:	

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 **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 of record is retiring, as of 28 August 2006", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DEPARTMENT OF THE AIR FORCE
AFMC LO/JAZ
2240 B ST., RM. 100
WRIGHT-PATTERSON AFB, OH 45433-7109

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Ming-Hau Tung	: DECISION ON REQUEST FOR
Patent Number	: 7630119	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,613	: 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 **37** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE RD, SUITE 500 EAST
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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MAR 10 2009

OFFICE OF PETITIONS

Applicant: Buchholz *et al.*
Application No.: 11/203,620
Filed: August 11, 2005
Title: PRODUCTION OF ATTENUATED, HUMAN-BOVINE CHIMERIC RESPIRATORY SYNCYTIAL VIRUS VACCINES

DECISION DISMISSING PETITION

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO WAIVE RULE TO PERMIT FILING OF REFERENCES ON COMPACT DISK," filed March 9, 2007 ("the petition"). The petition requests waiver of 37 CFR 1.98(a)(2) to submit, in lieu of paper copies, electronic copies on compact disk of references cited in an information disclosure statement (IDS) filed concurrently with the petition on March 9, 2007.

Petitioner paid by check the petition fee of $400.00 pursuant to 37 CFR 1.17(f) for the petition under 37 CFR 1.183.

For the reasons set forth herein, the petition is dismissed.

DISCUSSION

37 CFR 1.98(a)(2) provides that any IDS filed under § 1.97 shall include:

> A legible copy of:
>
> (i) Each foreign patent;
>
> (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
>
> (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
>
> (iv) All other information or that portion which caused it to be listed.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 CFR 1.2 states:

> All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The instant petition has been fully considered. 37 CFR 1.98(a)(2) requires legible copies of certain documents listed on an IDS filed under 37 CFR 1.97 be submitted to the Office. Petitioner seeks waiver of this copy requirement for the IDS that was filed concurrently with the petition on March 9, 2007. The provisions of 37 CFR 1.98(a)(2) may be waived under 37 CFR 1.183 where a petitioner demonstrates an extraordinary situation in which justice requires suspension of the rule.

In support of the petition for waiver of 37 CFR 1.98(a)(2), petitioner notes that the IDS includes a large number of documents, several of which are PCT publications of great length. Petitioner submits that:

> [D]ue to the number of references submitted and the volume of paper that would be required to comply with 37 CFR 1.98(a)(2) by filing of paper copies of the references, it is in the interest of the USPTO, and also Applicants, that the USPTO to accept the references on Compact Disk. In particular, acceptance of the references on Compact Disk avoids the waste of USPTO resources for scanning of the references for inclusion in the Image File Wrapper of the present application, and avoids the waste of Applicants' resources for printing of paper copies of the references in the first instance.[1]

As a general rule, waiver of a rule in the interest of justice is not available when there is recourse within the rules of practice. In this instance, petitioner requests waiver of the rules governing submission of documents to the Office based on the alleged waste of Office and applicant resources if paper copies of a large number of references were submitted to the Office.

[1] Petition at page 2.

In lieu of submitting paper copies of the references, however, petitioner may use the Office's web-based electronic filing system (EFS-Web) to electronically submit copies of the references to the Office with an IDS (e-IDS).[2] Using EFS-Web, petitioner may electronically submit copies of the references to the Office in portable document format (PDF), which will avoid wasting applicants' resources as it appears applicant already has copies of each of the references in PDF format.[3]

Moreover, EFS-Web can accommodate submission of an e-IDS that contains a listing of a large number of references.[4] Foreign references and non-patent literature are submitted as separate PDF attachments and are indexed as "Foreign Reference" and "NPL Documents" under the IDS/References category (copies of U.S. patents and patent application publications are not required to be submitted).[5] Up to sixty files can be uploaded per submission, and the filer may submit any additional electronic files as follow-on documents later on the same day as the initial filing.[6]

Additionally, contrary to petitioner's assertion, it would not be in the Office's interest to accept petitioner's submission of the references on compact disk as the Office presently has no facility for importing such files from compact disk directly into the image file wrapper (IFW) of the instant application.[7] Rather, the Office would be required to undergo the time-consuming and costly steps of printing out each of the references submitted on compact disk and scanning the printed references into the IFW. Nor is it in applicant's interest for the Office to accept petitioner's submission of the references on compact disk as manual scanning of the references printed from the compact disk increases the potential for error on the part of the Office and would likely reduce the quality of the copies of the references that are entered into the IFW.

Accordingly, for all of the reasons set forth above, petitioner has not presented facts that demonstrate an extraordinary situation in which justice requires suspension of 37 CFR 1.98(a)(2), and the petition is dismissed.

ADDITIONAL DISCUSSION

The Office notes that petitioner mailed a letter dated December 27, 2007 to the Office of Patent Legal Administration, together with a copy of the March 9, 2007 IDS and compact disks that were identified as containing copies of the IDS references for consideration by the examiner. In

[2] *See Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that "[a]s of May of 2002 IDSs may be submitted to the Office via the EFS" and that "[a]s of January 2007, an e-IDS filed via EFS-Web may include citations of U.S. patents, U.S. patent application publications, foreign patent documents and non-patent literature (NPLs)").
[3] *See* petition at page 1, item (C) (identifying "a Compact Disk including a .pdf file for each reference").
[4] *See Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that an individual e-IDS may contain a listing of (1) a combined total of 50 U.S. patents and U.S. patent application publications, (2) 50 foreign patent documents, and (3) 50 NPLs, and that more than one e-IDS may be submitted if these numbers are exceeded).
[5] *See Frequently Asked Questions about EFS-Web*, Question p220efs221, at http://www.uspto.gov/ebc/efs_faq.htm.
[6] *See Legal Framework for EFS-Web* § XVI (September 2008) at http://www.uspto.gov/ebc/portal/efs/legal.htm.
[7] *See Frequently Asked Questions about EFS-Web*, Question p242efs586, at http://www.uspto.gov/ebc/efs_faq.htm.

the December 27, 2007 letter, petitioner indicated that the copies of the IDS references were being supplied on compact disk pursuant to an alleged oral understanding with an Office employee. Petitioner is reminded that all business with the Office should be transacted in writing.[8] 37 CFR 1.2 provides that the action of the Office will be based exclusively on the written record in the Office and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. The written record of the instant application does not include a paper (e.g., an interview summary) that memorializes the alleged oral understanding or the basis upon which such understanding was premised. Accordingly, pursuant to 37 CFR 1.2, the alleged oral understanding has not been considered by the Office.

CONCLUSION

The petition is dismissed for the reasons set forth herein, and the application is being forwarded to Technology Center 1600 for further processing. Telephone inquiries regarding this communication should be directed to Nicole Dretar at (571) 272-7717.

Brian E. Hanlon

Brian Hanlon
Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[8] 37 CFR 1.2

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P.O. Box 1450
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EMIL CHANG
LAW OFFICES OF EMIL CHANG
874 JASMINE DRIVE
SUNNYDALE, CA 94086

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Ehsani, et al. :
Application No.: 11/203,621 : ON PETITION
Filed: August 12, 2005 :
Attorney Docket No. SEHDA-03 :

This is in response to the petition under 37 CFR 1.137(b) filed June 27, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on September 14, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required a $65.00 surcharge for the late payment of the filing fee, and payment of the filing fee, search fee , and examination fee. A complete response was not received within the allowable period, and the application became abandoned on November 15, 2005. A Notice of Abandonment was mailed on May 23, 2006.

This application is being directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Gelfand et al.	:	DECISION ON PETITION
Application No. 11/203,622	:	TO WITHDRAW
Filed: August 11, 2005	:	FROM RECORD
Attorney Docket No. 60349-5001-US02	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 43850 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Chase
Petitions Examiner
Office of Petitions

cc:

ROCHE MOLECULAR SYSTEMS INC
PATENT LAW DEPARTMENT
1145 ATLANTIC AVENUE
ALAMEDA CA 94501

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ROCHE MOLECULAR SYSTEMS INC
PATENT LAW DEPARTMENT
1145 ATLANTIC AVENUE
ALAMEDA CA 94501

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OFFICE OF PETITIONS

In re Application of	:	
Gelfand et al.	:	
Application No. 11/203,622	:	ON PETITION
Filed: August 11, 2005	:	
Attorney Docket No. 060349-5001-US02	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 11, 2005, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

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

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

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

The Power of Attorney to the attorney filing the instant petition has since been revoked. A courtesy copy of this decision is being sent to the address listed on the petition; all future correspondence will be directed solely to the address listed above.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1634 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

MORGAN, LEWIS & BOCKIUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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

18 JAN 2006

JORDAN AND HAMBURG
122 East 42nd Street, Suite 4000
New York, NY 10168

In re Application of	:	
INOUE, Masahiro *et al*	:	
Application No.: 11/203,625	:	
PCT No.: PCT/JP2004/001702	:	
Int. Filing Date: 17 February 2004	:	**DECISION**
Priority Date: 18 February 2003	:	
Attorney Docket No.: F-8558	:	
For: BALL SCREW DEVICE	:	

This decision is in response to the "Petition under 37 CFR 1.181" filed 05 October 2005. No fee is required. Applicants' petition is **GRANTED** as follows:

On 11 August 2005, applicants submitted papers for a patent application. The application was processed as a filing under 35 U.S.C. 111(a) by the Office. On 30 August 2005, the Office mailed a Notice Regarding Benefit/Priority Claim(s)" noting that the prior-filed nonprovisional application was improperly indicated as a national stage application. On 05 October 2005, applicants filed the subject petition requesting that the above-captioned application be identified as a national stage application of PCT/JP2004/001702.

A review of the application file shows that applicants submitted a transmittal letter and an executed declaration on 11 August 2005. Both identified that the subject application was filed pursuant to 35 U.S.C. 371. Moreover, the Application Data Sheet also indicated that the application was a national stage of PCT/JP2004/001702. There were no other conflicting instructions. This is sufficient for a national stage filing.

For this reason, the Notice Regarding Benefit/Priority Claim(s)" mailed 30 August 2005 was sent in error, and is hereby **VACATED**.

This application is being forwarded to the National Stage Processing for continued processing as a national stage application of PCT/JP2004/001702 filed 17 February 2004 and to remove all references that this application was filed under 35 U.S.C. 111(a).

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,665	08/12/2005	Udo Schutz	PR-74	8083

7590 12/16/2009

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

EXAMINER
MCKINLEY, CHRISTOPHER BRIAN

ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
12/16/2009	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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Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

In re Application of: SCHUTZ, UDO Serial No.: 11/203,665 Filed: August 12, 2005 Docket: PR-74 Title: PLASTIC TANK FOR LIQUIDS	DECISION ON PETITION

This is a decision on the petition filed on December 7, 2009 seeking withdrawal of the finality of the Office action mailed April 1, 2009. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the December 7, 2009 petition, the petitioner requests the finality of the Office action of April 1, 2009 be reconsidered and withdrawn because the applicant believes that the final rejection of April 1, 2009 is a premature final rejection. The final rejection was the first action made final after the filing of the RCE of December 29, 2008. A review of the record shows that the instant petition was filed more than eight months after the mailing date of the final Office action of April 1, 2009. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of April 1, 2009 will not be granted.

In view of the record, petitioner's request to withdraw the finality of the Office action dated August 18, 2009 is dismissed as untimely.

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Donald T. Hajec, Director
Technology Center 3700

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Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of :
Udo Schutz :
Application No. 11/203,665 :
Filed: August 12, 2005 :
Attorney Docket No. PR-74 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of April 1, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A reply was received on July 7, 2009, but was not a proper reply under 37 CFR 1.113(a) to the final rejection. No extensions of time were obtained. Accordingly, the date of abandonment of this application is July 2, 2009. A Notice of Abandonment was mailed on December 23, 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 lack item (1).

As to item 1, the file record does not show that a response to the Office action mailed April 1, 2009 was submitted with the petition to revive.

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

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Kahn, et al.	:	
Application No. 11/203,671	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 09761730-0041	:	FROM RECORD
	:	

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 21, 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 R. Metzger on behalf of all attorneys of record who are associated with customer No. 26263.

All attorneys/agents associated with the Customer Number 26263 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JONATHAN KAHN
1108 CHEYENNE DRIVE
CROWN POINT, IN 46307

cc: JORDAN A SIGALE
LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,671	08/12/2005	Jonathan Kahn	09761730-0041

CONFIRMATION NO. 8101

OC000000025198235

26263
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/21/2007.

- 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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Art Shelest	: DECISION ON REQUEST FOR
Patent Number	: 7620987	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,676	: 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 **1102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of Jones et al. :
Application No. 11/203,677 :
Filing Date: August 12, 2005 :
Attorney Docket No. B19806P :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 2, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 3, 2005. A Notice of Abandonment was mailed on May 11, 2006.

The instant petition requests revival of the application.

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Eugene J. Vaatveit	: DECISION ON REQUEST FOR
Patent Number	: 7647181	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,679	: 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 **1188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HOEKENDIJK & LYNCH LLP
PO BOX 4787
BURLINGAME CA 94011-4787

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OFFICE OF PETITIONS

In re Application of	:	
Stefan J.M. Kraemer	:	
Application No. 11/203,680	:	ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. 2234-15-3	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 18, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed December 4, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 5, 2008. The Office mailed a Notice of Abandonment on June 12, 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 RCE.

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

circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Group Art Unit 3734 for consideration of the RCE, filed May 18, 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Keith Michael Chugg	: DECISION ON REQUEST FOR
Patent Number	: 7673213	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,683	: 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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Yokoi & Company U.S.A., INC.
13700 Marina Pointe Drive, Suite #723
Marina Del Rey, CA 90292

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of Nagai et al. :
Application No. 11/203,702 :
Filing Date: August 15, 2005 :
Attorney Docket No. P05-1014 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2009, 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 Allowability mailed November 26, 2008, which set a period for reply of three (3) months. The above-identified application became abandoned on February 26, 2009. A Notice of Abandonment was mailed on March 24, 2009.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowability. Petitioner has submitted the required petition fee of $1,620. 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 4155 will be informed of the instant decision and the examiner will consider the amendment under 37 CFR 1.312 filed April 15, 2009, in due course. Thereafter, the examiner will forward the matter to the Office of Data Management, Patent Publication Branch.

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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BEMIS COMPANY, INC.
2200 BADGER AVENUE
OSHKOSH WI 54904

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OFFICE OF PETITIONS

In re Application of
Roger Bannister et al.
Application No. 11/203,703
Filed: August 15, 2005
Attorney Docket No. 20725

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed November 1, 2005, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed September 2, 2005.

The petition is **DISMISSED.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 15, 2005 naming Roger Bannister and Guy N. Davis as joint inventors, but without a signed declaration. Accordingly, on September 2, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition, was filed with an oath or declaration signed only by joint inventor Davis. Petitioners seek status under 37 CFR 1.47(a) based on the fact that the declaration was sent to and received by Mr. Bannister at his last known address, but in spite of those efforts, Mr. Bannister has not returned an executed oath or declaration. Petitioners claim therefore that by his actions, Mr. Bannister is refusing to cooperate with the filing of the instant application.

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

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

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

(3) the petition fee; and

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

The present petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The petition indicates that the declaration and assignment documents were sent to Mr. Bannister, but does not indicate that the complete application was ever sent to them. Thus, there is no evidence to show that the non-signing inventors had the benefit of reviewing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Petitioner should also be advised that effective November 22, 2004, the petition fee has been increased from $130.00 to $200.00. Therein, deposit account no. 50-2023 has been charged in the amount of $200.00. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
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BEMIS COMPANY, INC.
2200 BADGER AVENUE
OSHKOSH WI 54904

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OFFICE OF PETITIONS

In re Application of
Roger Bannister et al.
Application No. 11/203,703
Filed: August 15, 2005
Attorney Docket No. 20725

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the request for reconsideration filed January 3, 2006, under 37 CFR 1.47(a)[1].

The petition is **GRANTED**.

The above-identified application was filed on August 15, 2005 naming Roger Bannister and Guy N. Davis as joint inventors, but without a signed declaration. Accordingly, on September 2, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition, was filed with an oath or declaration signed only by joint inventor Davis. Petitioners seek status under 37 CFR 1.47(a) based on the fact that the declaration was sent to and received by Mr. Bannister at his last known address, but in spite of those efforts, Mr. Bannister had not returned an executed oath or declaration. Petitioners claimed therefore that by his actions, Mr. Bannister is refusing to cooperate with the filing of the instant application. The petition was dismissed because it hadn't been established that a complete application was sent with the declaration.

Comes now petitioner arguing that in response to the decision dismissing the petition filed November 1, 2005, a complete application was sent to joint inventor Bannister at the last known address and that delivery was attempted by the USPS to a forwarding address but eventually returned to the petitioners because Mr. Bannister has not accepted delivery of the package.

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

---

[1]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.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Technology Center 3727 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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OFFICE OF PETITIONS

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

In re Application of Edgar A. Deyoe, et al. Application No. 11/203,754 Filed: August 15, 2005 Attorney Docket No. 650053.00090	: : : : : :	ON PETITION

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

The petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jack M. Cook appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts.

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 April 21, 2009. A Notice of Abandonment was mailed on November 4, 2009. On November 17, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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.

This application is being referred to Technology Center AU 1631 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: William Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7661754	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1133** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
Bozzone et al.	:	
Application No. 11/203,780	:	ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No. CE14656JDP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Charles E. Grieshaber, et. al.	:	
Application No. 11/203,791	:	ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No. 2005-0479.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed September 2, 2005. A Notice of Abandonment was mailed on May 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration along with the surcharge of $130; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

Mail Date: 04/30/2010

Applicant	: Alex E. Raj	: DECISION ON REQUEST FOR
Patent Number	: 7609620	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/203,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **964** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Timothy A. Stelzer	: DECISION ON REQUEST FOR
Patent Number	: 7594226	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1073** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Shane S. Taylor	:	
Application No. 11/203,814	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SSTAY.1CP1C1	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed October 14, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

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

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

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

Telephone inquiries concerning this decision should be directed to 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 3743 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Parashuram Kulkarni	: DECISION ON REQUEST FOR
Patent Number	: 7610267	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 05/18/2010

Applicant : Parashuram Kulkarni
Patent Number : 7610267
Issue Date : 10/27/2009
Application No : 11/203,832
Filed : 08/13/2005

: 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 **216** 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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One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Application of	:	
KEVIN M. CRUCS	:	
Application No. 11/203,858	:	ON APPLICATION FOR
Filed: August 15, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 116385.00080	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed July 9, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred thirty-six (1,136) days, not eight hundred twenty (820) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a

determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Mail Date: 04/20/2010

Applicant	: Kevin M. Crucs	: DECISION ON REQUEST FOR
Patent Number	: 7616796	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE: R. Bovernick

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/17/07

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/203,865 Patent No.: 7233722

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2874
Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GEORGE A LEONE, SR
PATENT ATTORNEY
1117 BROADWAY
SUITE 401
TACOMA WA 98402

COPY MAILED
OCT 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Meyer et al.	:	
Application No. 11/203,878	:	ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No. 60107US	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on June 29, 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 satisfactory statement from one of the applicants. Accordingly, the above-identified application has been accorded "special" status.

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.

The application is being forwarded to the Technology Center Art Unit 2624 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/203,878	08/15/2005	Michael G. Meyer	60107US

GEORGE A LEONE, SR
PATENT ATTORNEY
1117 BROADWAY
SUITE 401
TACOMA WA 98402

DATE MAILED: January 9, 2007

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

This is in response to the petition under 37 CFR 1.138(d) filed January 3, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

Best Available Copy

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

DANIEL C. RUBERG
3000 GULFSHORE BLVD.
 # 111
NAPLES FL 34104

MAILED

APR 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel C. Ruberg	:	
Application No. 11/203,880	:	ON PETITION
Filed : August 15, 2005	:	
Attorney Docket No. 05-5732	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 12, 2010, 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 (PTO/SB/130 form) by the applicant's attorney that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK NY 10036-2714

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of
Osamu Yokoyama et al.
Application No. 11/203,899
Filed: August 15, 2005
Attorney Docket No. E0400.0009

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(6), filed December 5, 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. [1]

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6). [2] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the declaration filed with the application, as shown by their inclusion on the filing receipt.

---

[1] It is noted that the provisional application was filed on August 13, 2004 and the instant application was timely filed Monday, August 15, 2005. See 37 CFR 1.7(b).

[2] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

However, a proper amendment is still required. 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.

Additionally, the reference to add the prior-filed application should not include an incorporation by reference statement. 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).

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed the Technology Center.

This matter is being referred to Technology Center Art Unit 1617 for appropriate action, pending the filing of a proper amendment for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DIW Feb-06

DEAN D. SMALL
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS MO 63102

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Lum et al.	:	
Application No. 11/203,913	:	DECISION ON PETITION
Filed: 15 August, 2005	:	
Atty Docket No. 23988-1	:	

This is a decision on the petition, filed on 29 December, 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 15 August, 2005, rather than the presently accorded filing date of 16 August, 2005.

Petitioner alleges that the application was deposited in Express Mail service on 15 August, 2005. In support, petitioners have provided a copy of Express Mail Label No. EV734402016US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "8-16-05" the label also contains an Official USPS postmark dated Aug 15, 2005.

In view of the above, the correct date of deposit in Express Mail is 15 August, 2005.

In view of the above, the petition is granted. No petition fee is necessary and none has been charged.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to **15 August, 2005.**

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/203,913	08/15/2005	3744	1130	23988-1	12	1	1

CONFIRMATION NO. 9576

CORRECTED FILING RECEIPT

OC000000018003329

Dean D. Small
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

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)

Ken Lum, Fresno, CA;
Dale Kempf, Fresno, CA;
Keith Harris, Fresno, CA;

Power of Attorney:

Dean Small--34730
Bruce Atkins--43476
Robert Slenker--45112
Evan Sotiriou--46247
Jay Hoette--50666
William Zychlewicz--51366
Anita Lemke--51935

Domestic Priority data as claimed by applicant

This application is a CON of 10/006,970 12/04/2001 PAT 6,929,187
which is a CIP of 09/697,520 10/25/2000 PAT 6,536,464
and claims benefit of 60/251,122 12/05/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/203,913

Projected Publication Date: 03/09/2006

Non-Publication Request: No

Early Publication Request: No

Title

Water control fixture having thermostatically controlled bypass valve

Preliminary Class

137

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

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

NOT GRANTED

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

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RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Nicholas Wang :
Application No. 11/203,921 :
Filed: August 14, 2005 :
Attorney Docket No. 66557-0001 :

DECISION GRANTING PETITION

This is a decision on the petition filed October 17, 2005, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of August 12, 2005, rather than the presently accorded filing date of August 14, 2005.

Petitioner alleges that the application was deposited with the Express Mail Service on August 12, 2005. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EV86237308US showing a "date-in" of August 12, 2005. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on August 12, 2005.

In view of the above, the petition is granted. The new filing date for the above-cited application is August 12, 2005.

The Office of Initial Patent Examination will further process the application with a filing date of August 12, 2005, and issue a corrected filing receipt.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BRADLEY D. GOLDIZEN
505 SOUTH INDEPENDENCE BOULEVARD
SUITE 102
VIRGINIA BEACH, VA 23452

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Beresford ErkenBrack	:	
Application No. 11/203,934	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ERK-001-05	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 15, 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 Inventor Kenneth B. ErkenBrack's birth certificate showing that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

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James P. Broder
Roeder & Broder LLP
9915 Mira Mesa Blvd. Suite 300
San Diego, CA 92131

Mail Date: 04/21/2010

Applicant	: Mon Spencer Owyang	: DECISION ON REQUEST FOR
Patent Number	: 7628094	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

In re Application of	:	
KOZLOWSKI et al.	:	LETTER REGARDING PATENT
Application No. 11/203,946	:	TERM ADJUSTMENT
Filed: August 15, 2005	:	
Attorney Docket No. AL01381KB US	:	

This letter is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(d)", filed April 16, 2009, which is properly treated under 37 CFR 1.705(b). Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicants state that the patent term adjustment for the above-identified application may be too many days. Applicants submit that the determination of patent term adjustment under 35 U.S.C. 154(b) should be zero (0) days (60 days of Office delay less 63 days of applicant delay), not forty-two (42) days.

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

On March 5, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 42 days. On April 16, 2009, applicants submitted the instant comment. Applicants do not state a specific basis for the request for review of the patent term adjustment. However, it appears applicants are directing the Office's attention to the period of reduction of 45 days pursuant to 37 CFR 1.703(a)(3).

A review of the application history confirms that the total period of adjustment of 105 days for Office delay and the total period of reduction of 63 days for applicant delay are proper. Specifically, the record supports the conclusion that the period of reduction of 45 days under 37 CFR 1.703(a)(3) is warranted.

Pursuant to 37 CFR 1.703(a)(3), the period of adjustment under § 1.702(a) is:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

In this instance, the Office mailed a notice of allowance on March 5, 2009, four months and 45 days after the filing of a reply in compliance with 37 CFR 1.113(c) in the form of a Request for Continued Examination and submission under 37 CFR 1.114 on September 19, 2008. As the Office did not take action within the specified time frame set forth in 37 CFR 1.702(a)(2), the period of reduction of 45 days is warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 42 days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of
Nobuyuki TAGUCHI, et *al.*
Application No. 11/203,964
Filed: August 16, 2005
Attorney Docket No. **276735US3**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 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 November 13, 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 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.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,984	08/15/2005	Warren M. Farnworth	2269-6105.1US (03-0885.01	9802

EXAMINER
KOCH, GEORGE R

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
11/13/2007	ELECTRONIC

7590 11/13/2007
TRASK BRITT, P.C./ MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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:1201 -200.00 OP

05 FC:1202 -200.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,984	08/15/2005	Warren M. Farnworth	2269-6105.1US (03-0885.01	9802

63162 7590 11/15/2007
TRASK BRITT, P.C./ MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY, UT 84110

EXAMINER
KOCH, GEORGE R

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
11/15/2007	ELECTRONIC

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

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

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

USPTOMail@traskbritt.com

Notice of Abandonment	Application No.	Applicant(s)	
	11/203,984	FARNWORTH, WARREN M.	
	Examiner	Art Unit	
	Koch, George	1791	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,990	08/16/2005	Ji-won Seo	116511-00163	9793

7590 02/13/2008
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER
HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 02/14/2008 KKING1
08/17/2005 EAREGAY1 00000054 11203990
02 FC:1111 -500.00 OP

Repln. Ref: 02/14/2008 KKING1 0016133500
DA#:232185 Name/Number:11203990
FC: 9204 $500.00 CR

FORM PET651G (Rev. 08/07)

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Greenblum & Berstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

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OFFICE OF PETITIONS

In re Application of

Ara Boghosian et al.
Application No. 11/203,992
Filed: August 16, 2005
Attorney Docket No. P 27786

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 18, 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, **that Care Rehab & Orthopedic Products, Inc. has not remitted payment**, do not meet any of the conditions set forth in 37 CFR 10.40 because Care Rehab & Orthopedic Products, Inc. has not properly intervened in accordance with 37 CFR 3.73(b).

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Christian Hunt
c/o Josh Witmer
Care Rehab & Orthopedic Products, Inc.
P.O. Box 580
McLean, VA 22101

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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JUL 23 2008

In re Application of	:	
Ara Boghosian, et al.	:	
Application No. 11/203,992	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. P 27786	:	FROM RECORD
	:	

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 26, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***Care Rehab & Orthopedic Products, Inc., failed to pay one or more bills.....***, do not meet any 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 Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Christian Hunt**
c/o Josh Witmer
Care Rehab & Orthopedic Products, Inc.
P.O. Box 580
McLean, VA 22101

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OFFICE OF PETITIONS

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

In re Application of	:	
Michael A. Smyser, et al.	:	
Application No. 11/204,001	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. WIL 2-009-3	:	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 October 5, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Mueller & Smith, LPA has been revoked by the assignee of the patent application on November 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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

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
11/204,001	08/15/2005	Michael A. Smyser	WIL 2-009-3

CONFIRMATION NO. 9836

OC000000022009423

OC000000022009423

266
MUELLER AND SMITH, LPA
MUELLER-SMITH BUILDING
7700 RIVERS EDGE DRIVE
COLUMBUS, OH 43235

Date Mailed: 01/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/21/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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KANESAKA BERNER AND
PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA VA 22314-2848

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of

Kobayashi, et al.

Application No. 11/204,038

Filed: August 16, 2005

Attorney Docket No. NIF-092

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 4, 2008.

The petition is **granted**.

This application was held abandoned May 31, 2008, after no reply was received to the Notice of Non-Compliant Appeal Brief mailed April 30, 2008. The notice set forth a shortened period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on May 31, 2008. A Notice of Abandonment was mailed November 10, 2008. The instant petition was filed on December 4, 2008. Petitioner maintains that the notice of April 30, 2008, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3600, GAU 3632 for further processing that may include consideration of the Appeal Brief filed December 4, 2008.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of
Tsuyoshi Hamaguchi
Application No.: 11/204,039
Filed: August 16, 2005
Attorney Docket No.: NIF-087

ON PETITION

This is a decision on the petition, filed April 3, 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 March 26, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3781 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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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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MAY 16 2008
OFFICE OF PETITIONS

In re Application of	:	
Jae-Jin et al	:	
Application No. 11/204,041	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. SAMS-0001-SD	:	

This is a decision on the petition under 37 CFR 1.313(a), filed May 14, 2008, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue "for the purpose of Declaring an Interference between at least Claim 46 of that Application and Claim 1 of U.S. Patent 7,057,689."

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account.

The petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

The issue fee in this application was received on May 14, 2008. Petitioner may wish to file a petition under 37 CFR 1.313(c)(2).

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

Irvin Dingle
Petition Examiner
Office of Petitions

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10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Jae-Jin Lyu et al :
Application No. 11/204,041 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. SAMS-0001-SD

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 14, 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 2871 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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

Applicant	: Kenji Yoneda	: DECISION ON REQUEST FOR
Patent Number	: 7638782	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/204,050	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1087** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BIRCH STEWART KOLASCH & BIRCH
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OFFICE OF PETITIONS

In re Patent No. 6,841,093	:	
Issue Date: January 11, 2005	:	
Application No. 10/204,055	:	ON PETITION
Filed: August 16, 2002	:	
Attorney Docket No. 0808-0333P	:	

This is a decision in response to a petition filed September 25, 2009, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 12, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner should note that the payment of the 3 ½ year maintenance fee and surcharge was submitted on May 5, 2009; therefore the duplicate payment of the maintenance fee and surcharge submitted on November 4, 2009 will be credited to petitioner's deposit account in due course.

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. 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 the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. However in accordance with 37 CFR 1.34 (a), the signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the petition; however, all future correspondence regarding this patent will be directed solely to the above noted correspondence address currently of record.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) is submitted.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MATTHEW BAILEY
MCKENNA LONG AND ALDRIDGE LLP
1900 K ST NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

COVIDIEN
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

In re Application of :
Henry E. Holsten et al :
Application No. 11/204,060 : ON PETITION
Filed: August 15, 2005 :
Attorney Docket No. H-US-00229 (203-4759)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3721 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

cc: Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road – Suite 225
Melville, New York 11747

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

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THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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MAR 16 2009

OFFICE OF PETITIONS

In re Application :
Chao, et al. :
Application No. 11/204,065 : PATENT TERM ADJUSTMENT
Filed: August 15, 2005 :
Dkt. No.: P-195-US1 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed February 10, 2009. This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed November 20, 2008, indicated a patent term adjustment (PTA) to date of 617 days. The instant application for PTA was timely filed February 10, 2009, along with the issue fee payment. Applicants argue that the application is entitled to an additional adjustment of 291 days pursuant to 37 CFR 1.702(b).

Applicants herein do not contest the adjustment of 617 days. Instead, the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests

for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 617 days.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

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OFFICE OF PETITIONS

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080

In re Patent No. 7,521,558	: DECISION ON APPLICATION FOR
Issued: April 21, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/204,065	:
Filed: August 15, 2005	:
Dkt. No.: P-195-US1	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. §1.705)," filed April 22, 2009. This matter is being properly treated as an application for patent term adjustment in accordance with 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,521,558 on April 21, 2009. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 617 days. Patentees argue that the patent is entitled to an adjustment of 866 days pursuant to 37 CFR 1.702(b).

Patentee argues that the patent is entitled to an additional adjustment of 249 days in accordance with 37 CFR 1.702(b) for failure to issue the patent within three years of the date upon which the application for patent was filed.

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

The instant application issued three years and 249 days after its filing date. The Office contends that the period of 249 days of delay in issuance of the patent overlaps with the period of 617 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 15, 2005, to the date that the patent issued, April 21, 2009. Prior to the issuance of the patent, 716 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 249 days after its filing date. However, the Office did not delay 249 days and also delay an additional 617 days. Accordingly, 617 days of patent term adjustment, the actual period of delay in issuance of the patent, was properly entered because the 249 days of delay in issuance of the patent overlaps with the examination delay 617 days of delay. Entry of both periods is not warranted.

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

Receipt is hereby acknowledged of the previously submitted patent term adjustment application fee of $200.00.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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).

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OFFICE OF PETITIONS

Theravance Inc.
901 Gateway Boulevard
South San Francisco, CA 94080

In re Patent No. 7,521,558	:
Chao et al.	: DECISION UPON REMAND AND
Issue Date: April 21, 2009	: RECONSIDERATION OF
Application No. 11/204065	: PATENT TERM ADJUSTMENT
Filed: August 15, 2005	: AND NOTICE OF INTENT
Attorney Docket No. P-195-US-1	: TO ISSUE CERTIFICATE OF
Title: Crystalline Form of a	: CORRECTION
BiPhenyl Compound	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred sixty-six (866) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred sixty-six (866) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,558 B2

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Chao 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 617 days

Delete the phrase "by 617 days" and insert – by 866 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 12:51:59

PTA Calculations for Application: 11/204065			
Application Filing Date:	08/15/2005	PTO Delay (PTO):	617
Issue Date of Patent:	04/21/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	866
PTO Delay Adjustment:	249		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	249		
47.5	04/01/2009	PTA 36 MONTHS			
47	04/21/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
46	03/23/2009	EXPORT TO FINAL DATA CAPTURE			
45	03/20/2009	DISPATCH TO FDC			
44	03/16/2009	MAIL-PETITION DECISION - DISMISSED			
43	03/16/2009	PETITION DECISION - DISMISSED			
42	02/17/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
41	02/12/2009	ISSUE FEE PAYMENT VERIFIED			
40	02/12/2009	ISSUE FEE PAYMENT RECEIVED			
39	02/10/2009	PETITION ENTERED			
38	12/30/2008	FINISHED INITIAL DATA CAPTURE			
37	11/24/2008	EXPORT TO INITIAL DATA CAPTURE			
36	11/20/2008	MAIL NOTICE OF ALLOWANCE			
35	11/20/2008	ISSUE REVISION COMPLETED			
34	11/20/2008	DOCUMENT VERIFICATION			
33	11/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	11/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
31	11/19/2008	NOTICE OF ALLOWABILITY			
30	11/17/2008	DATE FORWARDED TO EXAMINER			
29	11/10/2008	AMENDMENT AFTER FINAL REJECTION			
28	10/20/2008	MAIL FINAL REJECTION (PTOL - 326)			
27	10/15/2008	FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

26	09/22/2008	CONSIDERED			
25	09/22/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	23
24	10/09/2008	DATE FORWARDED TO EXAMINER			
23	09/22/2008	RESPONSE AFTER NON-FINAL ACTION			
22	09/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	06/23/2008	MAIL NON-FINAL REJECTION	617		-1
20	06/19/2008	NON-FINAL REJECTION			
19	11/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	03/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	03/22/2006	REFERENCE CAPTURE ON IDS			
13.7	03/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	01/03/2006	MISCELLANEOUS INCOMING LETTER			
11	11/14/2005	REFERENCE CAPTURE ON IDS			
10.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	11/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
7	09/20/2005	APPLICATION DISPATCHED FROM OIPE			
6	09/20/2005	APPLICATION IS NOW COMPLETE			
5	09/15/2005	CLEARED BY L&R (LARS)			
4	08/22/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	08/22/2005	CASE CLASSIFIED BY OIPE			
2	08/18/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/15/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,528,253	:	DECISION DISMISSING
Mammen et al.	:	REQUEST FOR
Application No. 11/204,066	:	RECONSIDERATION OF
Issue Date: May 5, 2009	:	PATENT TERM ADJUSTMENT
Filed: August 15, 2005	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
P-197-US1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705), filed on March 27, 2009, which is treated as an application for patent term adjustment under 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from five hundred ninety-three (593) days to nine hundred twenty-six (926) days if the patent issues on July 14, 2009.

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 593 days.

BACKGROUND

This application was filed on August 15, 2005. On December 31, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date was 593 days[1]. On March 27, 2009, a timely application for patent term adjustment was filed. Prior to the rendering of a decision on the merits on the application for patent term adjustment, on May 5, 2009, the application matured into U.S. Patent No. 7,528,253 with a revised patent term adjustment of 593 days.

[1] 593 days of Office delay was reduced by 0 days of applicant delay for a patent term adjustment of 593 days.

At the time of issuance of the patent, the application was pending three years and 263 days from its filing date. The Office determined that the 263 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2] overlap with the 593 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the issuance of the patent. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of no days, the patent issued with a revised patent term adjustment of 593 days.

Patentees assert that the correct number of days of Patent Term Adjustment at the time of the mailing of the notice of allowance is 926 days (based on a projected date of issuance of July 14, 2009) based on 593 days pursuant to 37 CFR 1.702(a), 333 days pursuant to 37 CFR 1.702(b), and zero days of applicant delay.

---

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

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

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

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

[4] The first Office action (restriction requirement) was mailed until May 30, 2008, 14 months and 593 days after the application filing date, August 15, 2005.

OPINION

Preliminarily, it is noted that the application issued as a U.S. patent on May 5, 2009, not July 14, 2009. Accordingly, the period under §154(b)(1)(B) and 37 CFR 1.702(b) is the period commencing the day after the date that is three years after the date the application was filed, August 16, 2008, until the date the application issued as a patent, May 5, 2009, or 263 days, rather than 333 days. Patentee's argument is being articulated accordingly.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the

---

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

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

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 15, 2005, and ending on the date of issuance of the patent, May 5, 2009,

(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 593 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 263 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 263 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 593 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 593 days and the 263 days is neither permitted nor warranted. 593 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of adjustment.

CONCLUSION

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

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-22-09

Paper No.: _____

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/204082 Patent No.: 7373889

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

FOR IFW FILES: Should figs be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

DAVID DUNN
SUPERVISORY PATENT EXAMINER

3636
Art Unit

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Toshikatsu Tsukamoto	: DECISION ON REQUEST FOR
Patent Number	: 7580056	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **888** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,498,905	:	DECISION ON REQUEST
Kudo et al.	:	FOR
Issue Date: March 3, 2009	:	RECONSIDERATION OF
Application No. 11/204,119	:	PATENT TERM ADJUSTMENT
Filed: August 15, 2005	:	and
Atty Docket No. 9281-5151	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on Monday, May 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-two (722) 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 twenty-two (722) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-two** (722) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,498,905

DATED : **March 3, 2009** **DRAFT**

INVENTOR(S) : Kudo 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 522 days

Delete the phrase "by 522 days" and insert – by 722 days--

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7621809	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,135	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1017** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7607976	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,147	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **995** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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K&L Gates LLP
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CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7607977	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,148	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1017** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HANIFY & KING, P.C.
1875 K STREET
SUITE 707
WASHINGTON, DC 20006

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AUG 20 2008

In re Application of	:	
Paul Parkinson	:	
Application No. 11/204,151	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. 19111.0159	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 1, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 2, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050 extension of time submitted with the petition on May 12, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2166 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SUITE 400
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yuichi Akiyama et al :
Application No. 11/204,184 :
Filed: August 16, 2005 :
Attorney Docket No. 5253-002-US01

This is a decision on the petition, filed March 30, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 3, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter 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.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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6.9.2010

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Patent No. : 7,288,380 B1
Ser. No. : 11/204,191
Inventor(s) : Gocke, et. al.
Issued : October 30, 2007

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 or 1.323.

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(ih) (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

Kevin E. Noonan
McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

ej

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 08/04/2010

Applicant	: Tjietse van der Gaast	: DECISION ON REQUEST FOR
Patent Number	: 7653396	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/204,194	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **870** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7666081	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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1899 POWERS FERRY ROAD, SUITE 310
ATLANTA GA 30339

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OFFICE OF PETITIONS

In re Application of	:	
Russell **WHITE**	:	
Application No. 11/204,256	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. 24870-RA	:	FROM RECORD
	:	

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 2, 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 Joel D. Meyers on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Russell White at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RUSSELL WHITE**
1385 CHALET CIRCLE
LAWRENCEVILLE, GA 30043

UNITED STATES PATENT AND TRADEMARK OFFICE

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THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

In re Application
Mathai Mammen et al.
Application No. 11/204,263
Filed: August 15, 2005
Attorney Docket No. **P-196-US1**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" filed June 5, 2009. Applicant requests that the determination of patent term adjustment be corrected from five hundred ninety-eight (598) days to nine hundred ninety-four (994) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,569,856
Issued: August 4, 2009
Application No. 11/204,263
Filed: August 15, 2005
Attorney Docket No. P- 196-US 1

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON GRANTED PATENT (37 C.F.R. § 1.705(d))" filed August 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred ninety-eight (598) days to nine hundred fifty-one (951) days.

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

On August 4, 2009, the above-identified application matured into US Patent No. 7,569,856 with a patent term adjustment of 598 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to an additional 353 days of patent term adjustment due to exceeding three year pendency. Patentees assert that in addition to this 353 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 598 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 951 days, which includes the period of Three Year Delay (353 days) and the period of Examination Delay (598 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 951 days (353 + 598 reduced by 0 overlap – 0 (applicant delay)).

The Office notes that patentees incorrectly calculated the period of adjustment under . 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentee used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the period of adjustment is 354 days (not 353 days as suggested by patentees), counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S. C. 111(a), August 15, 2008, and ending on the date the patent issued, August 4, 2009. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero,' " MPEP 2731. "For example, a period beginning on April 1, and ending on April 10 is ten (and not nine) days in length." Id.

Thus, as of the issuance of the patent on August 4, 2009, the application was pending three years and 354 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 598 days is correct. At issue is whether patentees should accrue 354 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 598 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 354 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and*

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 15, 2005, to the date the patent issued on August 4, 2009. Prior to the issuance of the patent, 598 days of patent term adjustment were accorded for the Office failing to respond within a

[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).

specified time frame during the pendency of the application. All of the 354 days for Office delay in issuing the patent overlap with the 598 days of Office delay. During that time, the issuance of the patent was delayed by 598 days, not 598 + 354 days. The Office experienced 598 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 598 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 354 days. The Office did not delay 598 days and then an additional 354 days. Accordingly, 598 days of patent term adjustment (not 598 and 354 days) was properly entered since the period of delay of 354 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 598 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 598 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 354 days over three years to the issuance of the patent. Accordingly, at issuance, the Office properly entered 598 days of patent term adjustment.

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

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

Christina Tartera Donnell for

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

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THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

Mail Date: 04/21/2010

Applicant	: Mathai Mammen	: DECISION ON REQUEST FOR
Patent Number	: 7569586	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,263	: OF WYETH
Filed	: 08/15/2005	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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OFFICE OF PETITIONS

Kristofer E. Elbing
187 Pelham Island Road
Wayland, MA 01778

In re Application of	:	
Tod W. McNamara	:	
Application No. 11/204,283	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. M0002-003001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2006.

The request is **APPROVED**.

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

The request was signed by Kristofer E. Elbing, the sole attorney of record.

Kristofer E. Elbing 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 Tod W. McNamara at the address indicated below.

There is no outstanding Office action at this time.

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

Terri Williams for

David Bucci
Petitions Examiner
Office of Petitions

cc: **Tod W. McNamara**
45 Warehouse Lane
Rowley, MA 01969

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/204,283	08/15/2005	Tod W. McNamara	M0002-003001

CONFIRMATION NO. 9098

OC000000021047478

OC000000021047478

26653
KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

Date Mailed: 10/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2006.

- 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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Gerald E. Lester, P.L.L.C.
2217 Fielder Drive
Katy, TX 77450

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OFFICE OF PETITIONS

In re Application of	:	
Louis A. Poleo, Jr.	:	
Application No. 11/204,294	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. 05001/01C1-USLAP1001	:	FROM RECORD
	:	

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

Gerald E. Lester has been withdrawn as attorney or agent of record.

The correspondence address of record has been changed since it is that of the sole inventor in this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Louis A. Poleo, Jr.
6001 Figland Street
Pearland, TX 77584

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/204,294	08/15/2005	Louis A. Poleo	05001 / 01C1-USLAP1001

CONFIRMATION NO. 9082

OC000000023899316

Gerald E. Lester, P.L.L.C.
2217 Fielder Drive
Katy, TX 77450

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2007.

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

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

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c/o Brown & Michaels, PC
400 M&T Bank Building
118 N. Tioga Street
Ithaca, NY 14850

Mail Date: 04/20/2010

Applicant	: George L. Markley	: DECISION ON REQUEST FOR
Patent Number	: 7597640	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **881** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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POUGHKEEPSIE, NY 12601

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OFFICE OF PETITIONS

In re Application of	:
Timothy J. Siegel et al	:
Application No. 11/204,321	: DECISION GRANTING PETITION
Filed: August 15, 2005	: UNDER 37 CFR 1.313(a)
Attorney Docket No. POU920030050US3	:

This is a decision on the petition, filed April 14, 2006, which is being treated as a petition under 37 CFR 1.313(a)to withdraw the above-identified application from issue prior to payment of the issue fee.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on March 1, 2006, with the issue fee being due on or before June 1, 2006. There is no indication that the issue fee has to date been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue, if submitted on or before the due date for payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2189 for appropriate processing of the RCE filed April 14, 2006, and for consideration of the concurrently filed Information Disclosure Statement .

Frances Hicks
Petitions Examiner
Office of Petitions

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JOHN E. CAMPBELL
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OFFICE OF PETITIONS

In re Application of	:	
SIEGEL et al.	:	
Application No. 11/204,321	:	DECISION GRANTING PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920030050US3	:	

This is a decision on the petition, filed June 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration 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 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The $180 fee for the submission of the information disclosure statement is unnecessary and will be credited to the indicated deposit account.

Telephone inquiries should be directed to Denise Pothier at (571) 272-4787.

This matter is being referred to Technology Center AU 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Timothy Siegel, et al. :
Application No. 11/204,321 : ON PETITION
Filed: August 15, 2005 :
Attorney Docket No.: OU920030050US3 :

This is a decision on the petition, filed August 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 3, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2189 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Timothy J. Siegel, et al. :
Application No. 11/204,321 :
Filed: August 15, 2005 :
Attorney Docket No.: POU920030050US3 :

ON PETITION

This is a decision on the petition, filed September 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2189 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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POUGHKEEPSIE NY 12601

In re Application of
Timothy J. Siegel, et al.
Application No. 11/204,321
Filed: August 15, 2005
Attorney Docket No. POU920030050US3

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 5, 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 April 10, 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]

It is noted that, while the petition is captioned for the above-identified application, the petition request itself references withdrawal of applicant's co-pending divisional application, Application No. 10/435,919, from issue. Nevertheless, as this appears to be an error in the request, the Office has construed the request as an intent to withdraw the present application from issue and, as such, has granted the instant petition under 37 CFR 1.313(c)(2).

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Meng-An Pan	: DECISION ON REQUEST FOR
Patent Number	: 7657236	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,339	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **692** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Melvin Kraus
ANTONELLI, TERRY, STOUT & KRAUS, LLP
Suite 1800
1300 North Seventeenth Street
Arlington, VA 22209

JUL 25 2006

In re Application of: YOSHIYUKI KANEKO ET AL. Serial No.: 11/204,348 Filed: 16 August 2005 Docket: 501.4533X00 Title: DISPLAY DEVICE	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102(d) & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed November 1st, 2005 to make the above-identified application special for 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, petitioner provides: a) the applicable fee; b) a statement that all the claims are directed to a single invention and that petitioner will make an election without traverse should restriction be deemed necessary; c) a statement that a pre-examination search was made in US class 313, subclasses 258, 268, 292 and 422; d) copies of each reference uncovered in the search deemed to be most closely-related; and e) a discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention or if the Office determines that all the claims presented are not obviously directed to a single invention, that applicant will make an election without traverse as a prerequisite to the grant of special status; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a 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)-(d) are considered to have been met.

However, the petition fails to point out with the particularity required by 37 CFR § 1.111(b) and (c) how the claimed subject matter is distinguishable over each of the references. Therefore, the petition 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 does not specifically point out how the language of claim 1 distinguishes over *each* of the cited references. The general statement that the references to Curtin, Spindt, Pong and Schmidt contain no disclosure "concerning the partition walls being formed on some scanning signal lines along the extending direction of the scanning signal lines as represented by feature (1) of claim 1..." is not sufficiently specific because each of these references is not considered singly, on its own, relative to the alleged distinguishing features. The discussion of each reference should point out claimed features which are taught and not taught by each reference in order to meet the requirements of 37 CFR § 1.111 (b) and (c) that the patentably novelty be clearly and specifically pointed out.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include a detailed discussion of how each reference distinguishes over each independent claim.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Devlieg :
Application No. 11/204,355 : DECISION
Filed: 16 August, 2005 :
Attorney Docket No. 05-0101 :

This is a decision on the petition filed on 1 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 **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 17 March, 2008, with reply due absent extension of time on or before 17 April, 2008.

The application went abandoned by operation of law after midnight 17 April, 2008.

The Office mailed the Notice of Abandonment on 8 December, 2008.

On 1 June, 2009, Petitioner Sean O'Neill (Reg. No. 45,446) filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Election and a statement of unintentional delay. It is noted however, that Petitioner was not Counsel of Record at the time the application was abandoned. Moreover, the extended period of delay is noted.

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.[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.*

Further, the record (including the petition filed on 1 June, 2009) does not necessitate a finding that the delay between midnight 17 April, 2008 (date of abandonment), and 1 June, 2009 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Applicants Devlieg and Zaballos and Petitioner/Counsel O'Neill when accepting Petitioner's representation that the delay in filing the response <u>*was*</u> *unintentional.*[2]

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 <u>and</u> 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.[3]

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[1] <u>See</u> 37 C.F.R. §10.18(b) <u>and</u> <u>Changes to Patent Practice and Procedure</u>; Final Rule Notice, 62 <u>Fed. Reg.</u> 53131, 53178 (October 10, 1997), 1203 <u>Off. Gaz. Pat. Office</u> 63, 103 (October 21, 1997).

[2] <u>See</u> <u>Changes to Patent Practice and Procedure</u>, 62 <u>Fed. Reg.</u> at 53160 and 53178, 1203 <u>Off. Gaz. Pat. Office</u> 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[3] <u>See</u> 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. <u>See</u> <u>Changes to Patent Practice and Procedure</u>, 62 <u>Fed. Reg.</u> at 53160 and 53178, 1203 <u>Off. Gaz. Pat. Office</u> at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] 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.[5]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3724 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.

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[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of
Bethel White Love
Application No. 11/204,373
Filed: August 15, 2005
Attorney Docket No. Love-Security Window

DECISION ON PETITION

This is a decision on the petition, filed October 17, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed March 19, 2008, which set a three (3) month shortened statutory period for reply. No reply having been received, this application became abandoned by operation of law as of midnight on September 19, 2008.

Petitioner asserts that the Office action dated March 19, 2008 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

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

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

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

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of March 19, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in 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 $810 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 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
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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) 272-3687.

Anthony Knight
Supervisor
Office of Petitions

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DIRECTOR 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. 11/204,375
Filed: August 16, 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 15, 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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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Ilse A. Massenbauer-Strafe	: DECISION ON REQUEST FOR
Patent Number	: 7645323	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,389	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **887** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

In re Application of Hall et al. :
Application No. 11/204,407 :
Filing Date: August 16, 2005 :
Attorney Docket No. AUS920050232US1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed April 1, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to timely respond to the non-final Office action of July 26, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before Monday, October 29, 2007. The Office did not receive a reply or request for an extension of time. As a result, a Notice of Abandonment was mailed on March 11, 2008.

Petitioner contends a reply was not filed because the Office action was never received. A review of the record indicates petitioner has supplied sufficient evidence to establish non-receipt of the July 26, 2007 Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A new non-final Office action will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2189 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Bhaskar Ghosh	: DECISION ON REQUEST FOR
Patent Number	: 7577637	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,409	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **672** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :

TIBBITS, Gordon :

Application No. 11/204,436 :
Filed: August 16, 2005 :
Attorney Docket No. **0001-0101** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the file is being transferred to another law firm, 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING, L.L.P.
1100 LOUISIANA
SUITE 4000
HOUSTON, TX 77002

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

In re Application of Harder et al. Application No. 11/204,442 Filed: August 16, 2005 Attorney Docket No. 37163.11 Title: Impact Excavation System and Method with Particle Trap	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed April 3, 2006, under 37 CFR. §1.47(b). This petition is properly treated as petition under 37 CFR 1.47(a).

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on August 16, 2005, without an executed oath or declaration. Accordingly, on September 2, 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 2, 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 five (5) month extension of time was also submitted. The current petition fee is $200.00. Pursuant to petitioner's request deposit account 08-1394 will be charged the $70.00 petition fee. The deposit account will also be charged the $65.00 surcharge for late filing of the oath or

declaration.

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 (2) and (4).

As to item (2), the signature block of inventor Harder contains non-initialed alterations to the declaration. A supplemental oath is required.

As to item (4), a statement of the last known address has been provided in the petition. However, the address in the petition does not match the addresses of the non-signing inventors (Nathan Curlett and Samuel Curlett) provided in the declaration. To the extent the non-signing inventors can be reached at the address provided in the petition a statement to the effect should be made. Further the address should be corrected in a supplemental oath or application data sheet.

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

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In re Application of
Nathan Harder, Harry Curlett, Paul Padgett and Samuel Curlett
Application No. 11/204,442
Filed: August 16, 2005
Attorney Docket No. 37163.11
Title of Invention: Impact Excavation System and Method with Particle Trap

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 5, 2006.

The petition is GRANTED.

Petitioner has shown that non-signing inventors Harry Curlett and Samuel Curlett have refused to join in the filing of the above-identified application. The petition attest a copy of the application was sent to the non-signing inventors' last known addresses . The refusal and failure to respond to the application sufficiently establishes that the non-signing inventors refuse 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.

Pursuant to petitioner's request, deposit account 08-1394 will be refunded the duplicate $200.00 petition fee.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Harry Curlett
3103 Big Horn Avenue
Cody, Wyoming 82414

In re Application of
Nathan Harder, Harry Curlett, Paul Padgett
and Samuel Curlett
Application No. 11/204,442
Filed: August 16, 2005
Attorney Docket No. 37163.11
Title of Invention: Impact Excavation System
and Method with Particle Trap

: LETTER

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Dear Mr. Curlett:

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

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202
ATTN: TODD MATTINGLY

cc: 4239 Pat O'Harra Mountain Drive
Cody, Wyoming 82414-9225

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OFFICE OF PETITIONS

In re Application of

Nathan Harder et al.
Application No. 11/204,442
Filed: August 16, 2005
Attorney Docket No. 37163.11

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 31, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KING & SPALDING, L.L.P.**
TODD MATTINGLY
1100 LOUISIANA, SUITE 4000
HOUSTON, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG H SUITE 250
AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
Lo, et al.	:	
Application No. 11/204,446	:	DECISION ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. CIS0255US	:	

This is a decision on the paper titled "PETITION FOR CORRECTED FILING RECEIPT", filed December 27, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3).

This petition is **DISMISSED** as inappropriate.

A petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

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

(2) 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 as unintentional; and

(3) the reference to the prior filed provisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title.

As the instant petition seeks deletion of a priority claim, a petition is not necessary. Applicant should delete the claim to priority via an Amendment or ADS.

This application is being returned to Group Art Unit 2616 for examination in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Anthony Knight
Supervisor
Office of Petitions

OIPE IAP19
DEC 27 2005
PATENT & TRADEMARK OFFICE

PATENT

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Alton Lo, Arjen Boers, Ijsbrand Wijnands		
Assignee:	Cisco Technology, Inc.		
Title:	TRANSPORTING MULTICAST OVER MPLS BACKBONE USING VIRTUAL INTERFACES TO PERFORM REVERSE-PATH FORWARDING CHECKS		
Serial No.:	11/204,446	Filed:	August 16, 2005
Examiner:	Unassigned	Group Art Unit:	2661
Docket No.:	CIS0255US		

Austin, Texas
December 19, 2005

OFFICE OF INITIAL PATENT EXAMINATION
FILING RECEIPT CORRECTIONS
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

PETITION FOR CORRECTED FILING RECEIPT

Dear Sir:

Applicants hereby petition the Commissioner For Patents to correct the Official Filing Receipt for the above-identified patent application as follows:

- ☐ 1. Correct the Filing Date
- ☐ 2. Correct Inventor Name
- ☐ 3. Correct Title
- ☒ 4. Correct Domestic Priority Data
- ☐ 5. Correct Attorney Docket Number
- ☐ 6. Other: _____

01/03/2006 YPOLITE1 00000030 502306 11204446
01 FC:1464 130.00 DA

This Petition is submitted for the following reasons:

Please the correct the Domestic Priority Data As Claimed By Applicant by removing the following: "This application claims benefits of 60/668,320 04/05/2005". **There is no claim to priority in this patent application.** This information should be removed, and the area should be blank.

Attached is a copy of the Filing Receipt having the above error and the change noted thereon, as well as copies of the first page of the Application as filed and the Supplemental Declaration for Patent Application and Power of Attorney as filed on December 5, 2005. Therefore, it is respectfully requested that a corrected Filing Receipt be issued.

Because this was an error on the part of Applicants, the Commissioner is hereby authorized to charge the petition fee of $130.00 for this correction to Deposit Account No. 502306. If this action does not lead to issuance of a corrected Official Filing Receipt as requested, please contact the undersigned at 512-439-5090. This form is being submitted in duplicate.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Office of Initial Patent Examination, Filing Receipt Corrections, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on December 19, 2005.

Attorney for Applicant(s) — Date of Signature: 12/19/2005

Respectfully submitted,

Jonathan N. Geld
Attorney for Applicant(s)
Reg. No. 44,702
512-439-5090
512-439-5099 (fax)

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OFFICE OF PETITIONS

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

In re Application of
Paden, Newman, Bruun, and Harris
Application No. 11/204,456
Filed: August 16, 2005
Attorney Docket No. 7785-51(SB1018)
For: METHOD AND APPARATUS FOR RECONSTRUCTING CALL PATHS IN MULTIPLE TELEPHONY SESSIONS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) November 7, 2005 (certificate of mailing dated November 1, 2005.)

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

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

The above-identified application was filed on August 16, 2005, and was not accompanied by a proper declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on September 1, 2005, requiring a proper declaration and a surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on November 7, 2005.

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

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

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

(3) the petition fee,

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

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

As to item (1), it is not sufficient to state that inventor Bruun is unavailable because he is on active military duty stationed in Iraq. It is conceivable that inventor Bruun is able to receive mail while stationed in Iraq. Petitioner must, therefore, establish that a diligent effort was made to locate inventor Bruun by detailing such efforts and providing any copies of corroborative documentary evidence, if available. Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP), provides, in pertinent part, that:

> [w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay Will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts.

Any renewed petition filed must include evidence of a diligent effort made by petitioner to locate inventor Brunn.

Deposit account 50-0951 will be charged $200.00 for the instant petition fee.

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of
Paden, Newman, Brunn, Harris
Application No. 11/204,456
Filed: August 16, 2005
Attorney Docket No. **7785-51 (SB1018)**
For: METHOD AND APPARATUS FOR RECONSTRUCTING CALLS PATHS IN MULTIPLE TELEPHONY SESSIONS

: DECISION NOTING JOINDER

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 12, 2006.

In view of the **joinder** of the inventor Brunn, further consideration under 37 CFR 1.47(a) is not necessary. 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 *Manual of Patent Examining Procedure* ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by all joint inventors is noted and made of record.

This application is being directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Patent No. 7,527,979 B2	:	
Haik	:	DECISION ON
Issue Date: May 5, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/204,459	:	OF
Filed: August 16, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 19585-0028	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTEMENT UNDER 37 CFR §1.705(d)," filed June 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred and eight (508) days to seven hundred seventy (770) days.

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

On May 5, 2009, the above-identified application matured into U.S. Patent No. 7,527,979 with a patent term adjustment of 508 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentee requests 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). Patentee asserts that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee requests recalculation of the patent term adjustment to include a 262 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 262 days and the period of adjustment

due to other examination delay, pursuant to 37 CFR §1.702(a), of 508 days.

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 262 days. This 262 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on August 16, 2005, and the patent having not issued until May 5, 2009, three years and 262 days later. Patentee asserts that in addition to this 262 day period, he is entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) totalling 508 days. This 508 day period is the sum of:

- a period of delay of 452 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 period of delay of 56 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2);

Under 37 CFR § 1.703(f), an applicant is 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 applicant failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 0 days for applicant delay is not in dispute. Patentee asserts that the total period of Office delay is the sum of the period of Three Years Delay (262 days) and the period of Examination Delay (508 days) to the extent that these periods of delay are not overlapping.

Patentee contends that no portion of the period of 14 month examination delay of 452 days (October 17, 2006 to January 11, 2008)and no portion of the period of the 4 month examination delay of 56 days (June 12, 2008 to August 6, 2008) overlaps with the Three Year Delay period (August 17, 2008 to May 5, 2009). Accordingly, patentee submits that the total period of Office Delay is 770 days, which is the sum of the period of Three Year

Delay (262 days) and the period of Examination Delay (508 days), reduced by the period of overlap (0 days).

The period of reduction of 0 days for applicant delay is not in dispute. As such, patentee asserts entitlement to a patent term adjustment of 770 days (262 + 508 reduced by 0 overlap - 0 for applicant delay).

The Office agrees that the patent issued 3 years and 262 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the Office entered a period of adjustment of 508 days. At issue is whether patentee should accrue 262 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 508 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that all 262 days overlap. Patentee's interpretation of the period of overlap has been considered and found to be incorrect. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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

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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).

the application was pending before the Office, August 16, 2005 to May 5, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 508 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. During that time, the issuance of the patent was delayed by 508 days, not 508 + 262 days. The Office took 14 months and 452 days to issue a first Office action. The Office took 4 months and 56 days to issue another Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 508 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 262 days after its filing date. The Office did not delay 508 days then an additional 262 days. The 262 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 508 days attributable to grounds specified in § 1.702(a)(1) and § 1.702(a)(2). Entry of both periods is not warranted. 508 days was properly determined to be the actual number of days that the issuance of the patent was delayed, considering the 262 days over three years.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 508 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 will not be refunded.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Christina Tartera Donnell

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OFFICE OF PETITIONS

In re Patent No. 7,527,980	:	
Haik	:	DECISION ON
Issue Date: May 5, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/204,463	:	OF
Filed: August 16, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 19585-0029	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed June 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred ten (510) days to seven hundred seventy-two (772) days.

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

On May 5 2009, the above-identified application matured into U.S. Patent No. 7,527,980 with a patent term adjustment of 510 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentee requests 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). Patentee asserts that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays occur on the same day. Patentee requests recalculation of the patent term adjustment to include a 262 day period of adjustment pursuant to 37 CFR §1.703(b). Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 262 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 510 days.

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 262 days. This 262 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on August 16, 2005, and the patent having not issued until May 5, 2009, three years and 262 days later. Patentee asserts that in addition to this 262 day period, he is entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 510 days. This 510 day period is the sum of:

- a period of delay of 452 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 period of delay of 58 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2).

Under 37 CFR § 1.703(f), an applicant is 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 applicant failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 0 days for applicant delay is not in dispute. Patentee asserts that the total period of Office delay is the sum of the period of Three Years Delay (262 days) and the period of Examination Delay (510 days) to the extent that these periods of delay are not overlapping.

Patentee contends that no periods overlap. Accordingly, patentee submits that the total period of Office Delay is 772 days, which is the sum of the period of Three Year Delay (262 days) and the period of Examination Delay (510 days), reduced by the period of overlap (0 days).

Patentee asserts entitlement to a patent term adjustment of 772 days (510 + 262 reduced by 0 overlap - 0 for applicant delay).

The Office agrees that the patent issued 3 years and 262 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment of 510 days is correct. At issue is whether patentee should accrue 262 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 510 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that all 262 days overlap. Patentee's interpretation of the period of overlap has been considered and found to be incorrect. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

> beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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 16, 2005 to May 5, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 510 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. During that time, the issuance of the patent was delayed by 510 days, not 510 + 262 days. The Office took 14 months and 452 days to issue a first Office

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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).

action. The Office took four months and 58 days to respond to a reply. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 510 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 262 days after its filing date. The Office did not delay 510 days then an additional 262 days. The 262 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 510 days attributable to grounds specified in § 1.702(a)(1) and § 1.702(a)(2). Entry of both periods is not warranted. 510 days was properly determined to be the actual number of days that the issuance of the patent was delayed, considering the 262 days over three years.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 510 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 will not be refunded.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

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

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OFFICE OF PETITIONS

Daniel B. Schein, PH.D., ESQ., INC.
P. O. BOX 68128
Virginia Beach, VA 23471

In re Application of	:	
Mourad Ben Ayed	:	
Application No. 11/204,483	:	ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. N/A	:	

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

The application became abandoned for failure to file a reply to the Notice of Allowance and Fee(s) Due mailed on January 8, 2009. A Notice of Abandonment was mailed May 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 $755 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 06/17/2010

Applicant	: Hang Jin	: DECISION ON REQUEST FOR
Patent Number	: 7634277	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/204,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **50** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
William R. Burdette
Application No. 11/204,494
Filed: August 16, 2005
Attorney Docket No. 1166-2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 4, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 29973 has been revoked by the applicants of the patent application on June 10, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Robert J. Van Der Wall, P.A.
STE 701
2665 South Bayshore Drive
Coconut Grove FL 33133

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OFFICE OF PETITIONS

In re Application of	:	
David Bruce ROSS, et al	:	
Application No. 11/204,507	:	DECISION ON PETITION
Filed: August 17, 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 July 21, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Richard S. Ross, ESQ. on behalf of the attorneys of record associated with Customer No. 54748.

The attorneys of record associated with Customer No. 54748 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID ROSS,
13110 MUSTANG TRAIL
SOUTHWEST RANCHES, FL 33330

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID ROSS
13110 MUSTANG TRAIL
SOUTHWEST RANCHES FL 33330

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OFFICE OF PETITIONS

In re Application of	:	
Ross et al.	:	
Application No. 11/204,507	:	ON PETITION
Filed: August 17, 2005	:	

This is in response to the petition under 37 CFR 1.183, filed September 23, 2008 on behalf of Gady Abramson, requesting waiver of the requirements of 37 CFR 1.32(b)(4) so that a power of attorney may be signed by less than all of the applicants.

The petition is **DISMISSED**.

Petitioner, Gady Abramson, requests the USPTO to: (1) appoint the attorneys of Malin Haley DiMaggio Bowen & Lhota, P.A., as his representatives before the USPTO; and (2) waive the single signature requirements of Rule 1.32(b)(4) due to divergent interests in the subject matter of the instant application.

In order to obtain such a waiver and make the desired appointment, the record must show that an extraordinary situation exists where justice requires waiver. However, the record is not clear that a dispute currently exists such that there is an extraordinary situation where justice requires the waiver. More than one (1) year has passed since the petition was filed. During that time the application was prosecuted by Mark D. Bowen, Esq., Registration No. 39,914, of Malin Haley DiMaggio Bowen & Lhota, P.A. who signed papers in a representative capacity pursuant to 37 CFR 1.33(b). Since the petition was not yet granted, the signature of a registered practitioner serving in a representative capacity implied that the interests of both inventors were being represented. Furthermore, the Office action of December 16, 2008 was mailed to inventor David Ross and was answered with an amendment filed by Mr. Bowen on April 16, 2009, which suggests that Mr. Bowen and Mr. Ross had a working relationship. Any renewed petition that is filed must clarify if the dispute prompting the petition still exists.

Also, if the dispute still exists, granting the petition will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, in order to ensure that the interests of all parties are represented, each of these parties will have to sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist.

Comm'r Pat. 1988) and MPEP 402.10. **Dual correspondence is not permitted, and will not be undertaken by the USPTO.**

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: MALIN HALEY DiMAGGIO
BOWEN & LHOTA, P.A.
1936 South Andrews Avenue
Fort Lauderdale, Florida 33316

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
De Corte, et al. :
Application No. 11/204,513 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. JAB-1301-USCNT2 :
For: HIV REPLICATION INHIBITING PYRIMIDINES

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on October 4, 2005, which set an extendable three month period for reply. The Office has no record of receiving an extension of time or a reply to the October 4, 2005 non-final Office action in application no. 11/204,513. Therefore, the Office considered the application abandoned on January 5, 2006. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners assert that a proper response in the form of an amendment was timely filed on January 4, 2006. Petitioners explain that through inadvertent error, petitioners listed the application number as 10/204,513 on the January 4, 2006 amendment. Therefore, the amendment was not associated with application no. 11/204,513's file.

A review of the copy of the amendment shows that petitioners cited application no. 10/204,513. A review of the contents of the application no. 10/204,513 reveals that the January 4, 2006 amendment is present.

Even though petitioners cited the wrong application number on the amendment, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the January 4, 2006 correspondence

with this application file. A cross-referencing of any of the accurate identifiers found on the amendment with Office databases would have revealed the typographical error.

The undersigned will request that the January 4, 2006 amendment be removed from the file of application no. 10/204,513 and placed in the file of the above-identified application.

The January 4, 2006 amendment was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center AU 1624 for consideration of the amendment filed on January 4, 2006.

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

E. Shirene Willis

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

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OFFICE OF PETITIONS

PATENTS+TMS
A PROFESSIONAL CORPORATION
2849 W. ARMITAGE AVENUE
CHICAGO, IL 60647

In re Application of	:	
SNOWER, Bradley et al.	:	
Application No. 11/204,515	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. CHP-P-05-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 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 Brian M. Mattson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BRADLEY SNOWER**
6933 N. KEDZIE AVENUE, APT 809
CHICAGO, IL 60645

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THOMPSON HINE L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 8801
DAYTON, OH 45401-8801

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth M. **KRAMER**	:	
Application No. 11/204,516	:	DECISION ON PETITION
Filed: August 16, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **009774.00087**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 12, 2007. Accordingly, the date of abandonment of this application is March 13, 2008.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the 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, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **THOMPSON HINE, LLP**
3900 KEY CENTER
127 PUBLIC SQUARE
CLEVELAND, OH 44114-1291

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OFFICE OF PETITIONS

TARO PHARMACEUTICALS
5 SKYLINE DRIVE
HAWTHORNE, NY 10532

In re Application of	:
Georgewill, et al.	: DECISION GRANTING STATUS
Application No. 11/204,522	: UNDER 37 CFR 1.47(a)
Filed: August 16, 2005	:
Dkt. No.: 1060-US1	:
For: THERMOREVERSIBLE	:
PHARMACEUTICAL FORMULATION FOR	:
ANTI-MICROBIAL AGENTS COMPRISING	:
POLOXAMER POLYMERS AND HYDROXY	:
FATTY ACID ESTER OF POLYETHYLENE	:
GLYCOL	:

This decision is in response to the petition under 37 CFR 1.47(a), filed December 22, 2005.

The petition is **GRANTED**.

Petitioners have shown that inventor Maxine Moldenhauer has refused to execute the declaration for the above-identified application and/or cannot be reached or located for presentation and execution of same, and is thus unavailable.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

Mail Date: 04/26/2010

Applicant	: Warren J. Warwick	: DECISION ON REQUEST FOR
Patent Number	: 7597670	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/204,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1087** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petition to Make Special

Title of Invention	MOPPING SYSTEM AND METHOD OF USE
Attorney Docket#	BP50803
First Named Inventor	Palmer, Robert

As the below named inventor(s), or the agent or attorney of record thereof, I/we declare that:

This petition is directed to:

☑ The attached application, or

☐ Application No. 11/204550, filed on 8-16-05,
☐ as emended on _____ (if applicable);

1744
Chin, R

Applicant is 65 years of age or older, as evidenced by the attached:

- A copy of Applicant's Birth Certificate
- _____
- _____
- _____

Accordingly, Applicant respectfully requests that the above-identified application be made special pursuant to 37 CFR 1.102(c).

Signature: _____ Date: 8/16/05

Name: Kevin Prince Registration No. 57207

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
May 11, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Jeffrey Mark Arnold	: DECISION ON REQUEST FOR
Patent Number	: 7610475	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,555	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1108** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HODGSON RUSS LLP
ONE M & T PLAZA
SUITE 2000
BUFFALO NY 14203-2391

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OFFICE OF PETITIONS

In re Application of	:	
Kachynski, Kuzmin, Pudavar	:	DECISION ON PETITION
and Prasad	:	
Application No. 11/204,605	:	
Filed: August 16, 2005	:	
Attorney Docket No.	:	
011520.00448	:	

This is a decision on the petition under 37 CFR 1.182, filed January 30, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The Office of Petitions has changed the order of the names of the inventors in the Office computer records as requested in the present petition. A corrected filing receipt accompanies this decision.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/204,605	08/16/2005	2859	565	011520.00448	8	20	2

CONFIRMATION NO. 2918
CORRECTED FILING RECEIPT
OC000000018038744
OC000000018038744

26712
HODGSON RUSS LLP
ONE M & T PLAZA
SUITE 2000
BUFFALO, NY 14203-2391

Date Mailed: 02/10/2006

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

Applicant(s)

Aliaksandr Kachynski, Amherst, NY;
Andrey Kuzmin, Snyder, NY;
Haridas Pudavar, North Tonawanda, NY;
Paras N. Prasad, Williamsville, NY;

Power of Attorney: The patent practitioners associated with Customer Number **26712**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/601,949 08/16/2004

Foreign Applications

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Imaging methods

Preliminary Class

374

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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ALCATEL-LUCENT USA INC.
600-700 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974

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JAN 07 2010

In re Application of	:	
Young-Kai CHEN, et *al.*	:	
Application No. 11/204,607	:	DECISION GRANTING PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **44-9-15**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 23, 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 2613 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
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Kenneth L. Kramer	: DECISION ON REQUEST FOR
Patent Number	: 7600817	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,609	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **356** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET
SUITE 303
MANCHESTER, NH 03104

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of	:
Robbins, et al.	: DECISION REFUSING STATUS
Application No. 11/204,618	: UNDER 37 CFR 1.47(a)
Filed: August 16, 2005	:
Atty. Dkt. No.: DAVOX-185XX	:
For: SYSTEM AND METHOD OF HTML	:
TRANSACTION LOGGING IN A WEB	:
BASED (HTTP) CUSTOMER CONTACT	:
CENTER	:

The instant application has been referred to the Office of Petition with regard to the DECLARATION IN SUPPORT OF PETITION PURSUANT TO 37 CFR 1.47," filed August 16, 2004.

The petition is **DISMISSED**.

The papers submitted upon filing appear to reference the submission of a petition pursuant to 37 CFR 1.47, however, no such petition, properly executed by an agent or attorney of record appears to have accompanied the application. Receipt of the required petition fee is also acknowledged.

Accordingly, a decision on the merits cannot be rendered until such time as a proper petition is submitted.

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).

Absent evidence of submission (typically by means of a date stamped return receipt postcard) establishing receipt of the petition on August 16, 2004, the date of filing of the instant

petition, any renewed petition would require the submission of a surcharge for late submission of oath or declaration.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET
SUITE 303
MANCHESTER, NH 03104

In re Application of	:
Robbins, et al.	: DECISION REFUSING STATUS
Application No. 11/204,618	: UNDER 37 CFR 1.47(a)
Filed: August 16, 2005	:
Dkt. No.: DAVOX-185XX	:
For: SYSTEM AND METHOD OF HTML	:
TRANSACTION LOGGING IN A WEB	:
BASED (HTTP) CUSTOMER CONTACT	:
CENTER	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 22, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 16, 2005 without an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirements (1) set forth above. Petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers

(specification, including claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Anthony Dezonno declares that the non-signing inventor verbally refused to sign the declaration on July 19, 2005. There is no indication or supporting evidence that the non-signing inventor received a complete copy of the application prior to the alleged refusal.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET
SUITE 303
MANCHESTER, NH 03104

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OFFICE OF PETITIONS

In re Application of	:
Robbins, et al.	: DECISION GRANTING STATUS
Application No. 11/204,618	: UNDER 37 CFR 1.47(a)
Filed: August 16, 2005	:
Dkt. No.: DAVOX-185XX	:
For: SYSTEM AND METHOD OF HTML	:
TRANSACTION LOGGING IN A WEB	:
BASED (HTTP) CUSTOMER CONTACT	:
CENTER	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed April 3, 2006.

The petition is **GRANTED**.

Petitioner has shown that inventor Edwin Robbins, Jr. has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Edwin Robbins, Jr.
3 Bunce Circle
Sandown, NH 03873

COPY MAILED
MAY 05 2006
OFFICE OF PETITIONS

In re Application of :
Robbins, et al. :
Application No. 11/204,618 : LETTER
Filed: August 16, 2005 :
Dkt. No.: DAVOX-185XX :
For: SYSTEM AND METHOD OF HTML :
TRANSACTION LOGGING IN A WEB :
BASED (HTTP) CUSTOMER CONTACT :
CENTER :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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THE NEUDECK LAW FIRM, LLC
8961 LLAMA LANE
WINDSOR, CO 80550

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Michelle V. Roark	:	
Application No. 11/204,622	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. MR0-001	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed August 6, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 79700 has been revoked by the assignee of the patent application on September 14, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Michelle V. Roark
2150 Curtis Street
Denver CO 80205

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
11/204,622	08/16/2005	Michelle V. Roark	MR0-001

CONFIRMATION NO. 4008

POA ACCEPTANCE LETTER

Michelle V. Roark
2150 Curtis Street
Denver, CO 80205

OC000000037925214

Date Mailed: 09/28/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2009.

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

/sleutchit/

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
11/204,622	08/16/2005	Michelle V. Roark	MR0-001

CONFIRMATION NO. 4008

POWER OF ATTORNEY NOTICE

79700
The Neudeck Law Firm, LLC
8961 Llama Lane
Windsor, CO 80550

OC000000037925119

Date Mailed: 09/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2009.

- 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).

/sleutchit/

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

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DUANE MORRIS LLP
PO BOX 5203
PRINCETON, NJ 08543-5203

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of
PurusottamMookerjee, et al.
Application No. 11/204,630
Filed: August 16, 2005
Attorney Docket No. GE-07278

ON PETITION

This is a decision on the petition, filed June 20, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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(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 lacks item 1.

On March 19, 2007 a Notice of Allowance and Fee(s) Due was mailed, along with a Notice of Allowability requiring corrected drawings for the above-identified application. It is noted that, while the requisite issue fee accompanied the present petition, petitioner did not include the corrected drawings as required by the Notice of March 19, 2007. Accordingly, the application cannot be revived until the corrected drawings are filed.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
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
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DUANE MORRIS LLP
PO BOX 5203
PRINCETON, NJ 08543-5203

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APR 03 2008

OFFICE OF PETITIONS

In re Application of :
Purusottam Mookerjee, et al. :
Application No. 11/204,630 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. GE-07278/N0650-00753 :

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

The petition is **GRANTED.**

A review of the record discloses that the above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowance/Allowability mailed March 19, 2007, which set a statutory period for reply of three (3) months. On June 20, 2007, a petition under 37 CFR 1.137(b) was filed\; however, the petition was dismissed in a decision mailed October 12, 2007. In response, on December 6, 2007, 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 the issue fee of $1,400 and the corrected drawings; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed December 6, 2007 and for further processing as a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BEVER HOFFMAN & HARMS, LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE, CA 95110

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JAN 21 2009

OFFICE OF PETITIONS

In re Application of	:
Steve E. Ready et al	:
Application No. 11/204,648	: DECISION ON PETITION
Filed: August 15, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 20041077-US-NP (XCP-056)	:

This is a decision on the petition filed October 9, 2008, which is being treated as a petition 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 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 (3) above.

The item (3) statement is defective. The petition only applies to claim10/824,994 and petitioners first sentence includes 10/224,701 so the statement of unintentional delay does not apply to 10/224,701. The rule at 37 CFR § 1.78(a)(3) requires a

statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

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 Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BEVER HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

MAILED

APR 15 2009

OFFICE OF PETITIONS

In re Application of Steven E. Ready et at Application No. 11/204,648 Filed: August 15, 2005 Attorney Docket No. 20041077-US-NP (XCP-056)	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed February 18, 2009 which is being treated as a petition 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 applications set forth in the amendment filed October 9, 2008.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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 application is being forwarded to Technology Center Art Unit 2853 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.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/204,648	08/15/2005	2853	1000	20041077-US-NP (XCP-056)	20	1

CONFIRMATION NO. 3520

CORRECTED FILING RECEIPT

33726
BEVER, HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

OC000000035470071

Date Mailed: 04/14/2009

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)

Steven E. Ready, Santa Cruz, CA;
William S. Wong, San Carlos, CA;
Scott J. H. Limb, Palo Alto, CA;

Assignment For Published Patent Application

Palo Alto Research Center Incorporated, Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number 33726

Domestic Priority data as claimed by applicant

This application is a CIP of 10/824,994 04/15/2004 PAT 7,303,244
which is a DIV of 10/224,701 08/20/2002 PAT 6,890,050

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 **US 11/204,648**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Digital lithography using real time quality control

Preliminary Class

347

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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SEP 08 2009

OFFICE OF PETITIONS

In re Application of	:
Ammar	: LETTER REGARDING PTA
Application No. 11/204,674	:
Filed: August 16, 2005	:
Atty. Dkt. No.: 39505	:

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed August 4, 2009. The Office thanks patentees for their good faith and candor in bringing this to our attention.

A decision on the merits of the instant communication is not forthcoming due to the fact that the communication is not properly executed in accordance with 37 CFR 1.33(b).

In accordance with 37 CFR 1.33(b):

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

In accordance with 37 CFR 1.34:

> "When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required."

The communication is executed by T.J. Clark on behalf of David F. Crosby. A review of the application file does not reveal that Mr. Clark or Mr. Crosby are of record and authorized to act

on behalf of applicant. Further, Mr. Clark's signature fails to comply with 37 CFR 1.34 as the communication does not set forth Mr. Clark's USPTO registration number.

If applicant remains of the belief that an error exists in the calculation of patent term adjustment, applicant may wait until after the patent issues to submit a properly executed good faith and candor letter.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Division of Data Management for issuance of a patent.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: T.J. Clark
Mintz Levin Cohn Ferris Glovsky and Popeo PC
One Financial Center
Boston, MA 02111

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OFFICE OF PETITIONS

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

In re Patent No. 7,599,977	: DECISION ON APPLICATION FOR
Issued: October 6, 2009	: PATENT TERM ADJUSTMENT and
Application No. 11/204,674	: NOTICE OF INTENT TO ISSUE
Filed: August 16, 2005	: CERTIFICATE OF CORRECTION
Dkt. No.: 39505	:

This is a decision on the petition filed on December 1, 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 1,086 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 1,086 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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,086 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,599,977 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Ammar

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 948 days

Delete the phrase "by 948 days" and insert – by 1,086 days--

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

Mail Date: 04/21/2010

Applicant	: Danny F. Ammar	: DECISION ON REQUEST FOR
Patent Number	: 7599977	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 :
Camden et al. :
Application No. 11/204,707 : DECISION ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. 8251D2US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of June 29, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 30, 2007. A Notice of Abandonment was mailed on April 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $77.00, and (3) a proper statement of unintentional delay.

A three (3) month extension of time was requested with the instant petition. However, pursuant to 37 CFR 1.136 (a), an extension of time 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). Petitioner is ineligible for any extensions of time, nor is an extension of time fee required to revive the application. Accordingly, $525.00 will be credited

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

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of

Gordon Allen Tibbitts
Application No. 11/204,722
Filed: August 16, 2005
Attorney Docket No. 37163.10

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 31, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KING & SPALDING, L.L.P.**
TODD MATTINGLY
1100 LOUISIANA, SUITE 4000
HOUSTON, TX 77002

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TOBY H. KUSMER
MCDERMOTT WILL & EMERY LLP
28 STATE STREET
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of
Matthew Barnhill
Application No. 11/204,723
Filed: August 16, 2005
Attorney Docket No. 56233-269 (THAT-20)

ON PETITION

This is a decision in response to the petition, filed July 16, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed January 11, 2007. This decision precedes the mailing of a Notice of Abandonment. On July 16, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on July 16, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2615 for appropriate action by the Examiner in the normal course of business on the amendment received July 16, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090331

DATE : March 31, 2009

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7106248

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:

/THOMAS H TARCZA/
Supervisory Patent Examiner.Art Unit 3662

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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

Mail Date: 04/20/2010

Applicant	: Michael S. De Laurentis	: DECISION ON REQUEST FOR
Patent Number	: 7589749	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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325
LA JOLLA, CA 92037

Mail Date: 04/23/2010

Applicant	: David Brookler	: DECISION ON REQUEST FOR
Patent Number	: 7640255	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

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

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OFFICE OF PETITIONS

In re Patent No. 7,531,149	:	
Peng et al.	:	DECISION DISMISSING
Application No. 11/204,766	:	REQUEST FOR
Issue Date: May 12, 2009	:	RECONSIDERATION OF
Filed: August 16, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
40715-370524	:	

This is in response to the PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE, filed on April 2, 2009, which is treated as a request for reconsideration of the patent term adjustment under 37 CFR 1.705(b).[1] Patentees request that the determination of patent term adjustment be corrected from five hundred thirty-five (535) days to eight hundred eighty-seven (887) days on the basis that the patent will issue on August 4, 2009.

The request is **DISMISSED**.

Patentees are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the issued patent. See § 1.702-1.705.

Section 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

[1] On May 12, 2009, prior to the mailing of a decision on the subject application for patent term adjustment, the application issued as a patent.

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 request for reconsideration of patent term adjustment was filed contemporaneously with the payment of the issue fee. Thus, the request for reconsideration 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 request for reconsideration of 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).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Olesia Brown /

Anthony Knight
Supervisor
Office of Petitions

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28th FLOOR
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OFFICE OF PETITIONS

In re Application of	:	
Calvano et al.	:	
Application No. 11/204,768	:	DECISION ON APPLICATION
Filed: August 16, 2005	:	FOR
Atty Docket No. 005127.00463	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed August 19, 2008, which is properly treated as a petition under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 282 days to 301 days.

The application for patent term adjustment is **DISMISSED**.

On May 20, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 282 days. On August 19, 2008, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 58 days pursuant to 37 CFR 1.704(c)(7) on the grounds that they filed a complete reply to the Restriction Requirement on December 6, 2007.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicants' delay are correct.

[1] The Office records show that the issue fee was also received on August 20, 2008.

Applicants' argument has been considered, but is unpersuasive. On October 9, 2007, applicants filed a reply within three months from the September 28, 2007 mail date of the Restriction Requirement. See 37 CFR 1.704(b). On November 19, 2007, the Examiner mailed an Office communication indicating that the reply of October 9, 2007, contained omissions and was not fully responsive. On December 6, 2007, applicants filed a reply correcting the omission.

The Office notes that the three month clock for filing a reply to avoid a reduction of the period of patent term adjustment as set forth in 37 CFR 1.704(b)[1] stopped on October 9, 2007, the date the reply was filed. However, as the reply of October 9, 2007, contained an omission, it is a proper basis for a reduction of the patent term 37 CFR 1.704(c)(7).

37 CFR 1.704(c)(7) states:

> Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

Thus, the patent term adjustment was properly reduced by 58 days, the number of days beginning on the day after the date the reply having an omission was filed, October 10, 2007, and ending on the date that the reply or other paper correcting the

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[1] Pursuant to 37 CFR 1.704(b):

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

omission was filed, December 6, 2007. Accordingly, the reduction of 58 days will not be removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 282 days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/21/2010

Applicant	: Tero Ranta	: DECISION ON REQUEST FOR
Patent Number	: 7586384	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **658** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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October9, 2008

Steven P. Fallon
GREER, BURNS & CRAIN, LTD
300 South Wacker Drive, 25th Floor
Chicago, IL 60606

Patent No: 7,382,112 B2
Application No: 11/204776
Applicant: Philip T. Krein
Issued: June 3, 2008
Title: **METHODS AND DEVICES FOR INPUT WAVEFORM CONTROL IN SWITCHING POWER SUPPLIES**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Inspection of the file of the application for the patent reveals that column 6 at line 8, in the patent is printed in accordance with the record in the Patent and Trademark Office., as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

However, further consideration will be given to this matter, upon receipt of a request for certification of correction under the provision of 1.323, accompanied by the appropriate fee which is presently $100.

Virginia Tolbert
For Mary Digg, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Gadi Karmi	: DECISION ON REQUEST FOR
Patent Number	: 7596098	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,787	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **828** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
MOBBS, Tommie A. et al.	:	
Application No. 11/204,800	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. **PS-0002**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 04, 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 Steven J. Rocci on behalf of all attorneys of record who are associated with customer No. 23377. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There 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: **TOMMIE A. MOBBS**
1602 LOOKOUT FOREST
SAN ANTONIO, TEXAS 78260

cc: **PRESIDIO SCIENCES, L.P**
c/o LAW OFFICES OF JAMES P. ROBINSON, III
8700 CROWNHILL BLVD., SUITE 700
SAN ANTONIO, TEXAS 78209

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FREDRIKSON & BYRON, PA
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Hans-Leo Fernschild	:	
Application No. 11/204,805	:	DECISION ON PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 29805.106.6	:	

This is a decision on the petition under 37 CFR 1.313(c), filed June 24, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Further, in order to correct the foreign priority claim petitioner must file a petition under 37 CFR 1.55. Moreover, there were two Application Data Sheets filed on June 24, 2009 with conflicting information and it is unclear as to which ADS has provided the correct information.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

The request for continued examination (RCE) filed concurrently with the petition is considered improper and will not be processed. Accordingly, the $810 filing fee submitted is unnecessary and will be refunded in due course.

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

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

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

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS, MN 55402

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Hans-Leo Fernschild, et al.	:	
Application No. 11/204,805	:	DECISION ON PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 29805.106.6	:	

This is a decision on the petition under 37 CFR 1.55(c), filed July 6, 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 German Application No. 19911131.6, filed March 6, 1999.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

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

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

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

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

The petition fails to comply with item (2) above. In this regard, the application data sheet does not match the amendment to the specification. Further, the ADS claims that this is a 371 of the PCT application, however, the claim was not present upon filing. Additionally, the amendment to the specification incorporates by reference the PCT and German applications, which is not permitted as these applications were not incorporated by reference on filing of the instant application.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

By mail: Mail Stop PETITIONS
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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 April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55402

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of
Hans-Leo Fernschild, et al.
Application No. 11/204,805
Filed: August 15, 2005
Attorney Docket No. 29805.106.6

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed July 23, 2009 and supplemented August 21, 2009, to correct an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign German Application No. 19911131.6, filed March 12, 1999.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

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

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

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

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

This application was filed on August 15, 2005, which is after November 29, 2000. On August 21, 2009, a supplemental Application Data Sheet was received which identifies 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 of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 3751 examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/204,805	08/15/2005	3751	1000	29805.106.6	10	1

CONFIRMATION NO. 4537

CORRECTED FILING RECEIPT

22859
INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

OC000000036603813

Date Mailed: 06/22/2009

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)

Hans-Leo Fernschild, Korschenbroich, GERMANY;
Heiko Faubel, Wermelskirchen, GERMANY;
Karl-Heinz Rogmann, Ratingent, GERMANY;
Ulrike Scheuvens, Langenfeld, GERMANY;

Assignment For Published Patent Application

Ecolab GMBH & Co. OHG, Dusseldorf, GERMANY

Power of Attorney:

Brian Batzli--32960
Dennis Daley--34994
Mara DeBoe--40066
Mark Skoog--40178
Katherine De Vries Smith--42157
Robert Kalinsky--50471

Domestic Priority data as claimed by applicant

This application is a CON of 10/911,810 08/04/2004 PAT 6,951,430
which is a CON of 10/407,412 04/04/2003 PAT 6,799,916
which is a CON of 09/936,141 09/07/2001 PAT 6,550,998
which is a 371 of PCT/EP00/01832 03/03/2000

Foreign Applications

GERMANY 19911131.6 03/12/1999

If Required, Foreign Filing License Granted: 09/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/204,805**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

RUCKSACK APPLICATOR DEVICE

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).

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

Mail Date: 04/21/2010

Applicant	: Hans-Leo Fernschild	: DECISION ON REQUEST FOR
Patent Number	: 7621686	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Mail Date: 04/21/2010

Applicant	: Florent Cros	: DECISION ON REQUEST FOR
Patent Number	: 7621036	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,812	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **670** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Jeffery Scott Thompson	: DECISION ON REQUEST FOR
Patent Number	: 7604840	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1011** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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OFFICE OF PETITIONS

In re Application of

BARTELS, Carlton et al.
Application No. 11/204,825
Filed: August 16, 2005
Attorney Docket No. **CF-39 Div.**

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 19, 2008.

The request is **APPROVED**.

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

The request was signed by Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 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.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **CARLTON BARTEL**
80 BAY STREET LANDING, APT. 8G
STATEN ISLAND, NY 10301

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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EUGENE OAK
1101 N. MAYRLAND AVE #N
GLENDALE, CA 91207

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AUG 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Hyug Park	:	
Application No. 11/204,843	:	DECISION ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. 911-9501	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 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 February 15, 2008, as required by the Notice of Allowance and Fee(s) Due mailed November 15, 2007. Accordingly, the date of abandonment of this application is February 16, 2008. A Notice of Abandonment was mailed March 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JONATHAN O. OWENS
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

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AUG 19 2008

In re Application of	:	
Ota, Takaaki	:	
Application No. 11/204,846	:	ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No. SONY-29800	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2167 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL BUCHENHORNER, P.A.
8540 SW 83 STREET
SUITE 100
MIAMI, FL 33143

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JAN 28 2010

In re Application of	:	
Haley et al.	:	
Application No. 11/204,856	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. YOR920050156US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed October 27, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 28, 2008. A Notice of Abandonment was mailed June 1, 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.

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. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center 2416 for further examination on the merits

Chris Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Gordon Allen Tibbitts	:	
Application No. 11/204,862	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. 37163.8	:	FROM RECORD

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 31, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KING & SPALDING, L.L.P.**
TODD MATTINGLY
1100 LOUISIANA, SUITE 4000
HOUSTON, TX 77002

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Bib Data Sheet

CONFIRMATION NO. 3168

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/204,862	08/16/2005 RULE	175	3672	

APPLICANTS

Gordon Allen Tibbitts, Murray, UT;

**** CONTINUING DATA ****************************

This application is a CIP of 10/897,196 07/22/2004 PAT 7,503,407
which is a CIP of 10/825,338 04/15/2004 PAT 7,258,176
which claims benefit of 60/463,903 04/16/2003

**** FOREIGN APPLICATIONS ***********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** SMALL ENTITY **
** 09/02/2005

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	UT	12	36	6
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

Gordon Allen Tibbits
1378 Lakewood Circle
Murray, UT84117

TITLE

Impact excavation system and method with improved nozzle

FILING FEE RECEIVED 1520	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/09

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11204864 Patent No.: 7338992 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/David Wu/
SPE **Art Unit**
1796

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/09

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11204864 Patent No.: 7338992 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/David Wu/ _____
SPE **Art Unit**
1796

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PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Mail Date: 04/21/2010

Applicant	: Brian D. Maxson	: DECISION ON REQUEST FOR
Patent Number	: 7619692	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,878	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **692** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

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MAY 06 2010

OFFICE OF PETITIONS

In re Application of :
Marie-Cecile Van De Lavoir et al. :
Application No. 11/204,879 : ON PETITION
Filed: August 15, 2005 :
Attorney Docket No. 700603.4006 :

This is a decision on the petition, filed March 5, 2010, under 37 CFR 1.181 to withdraw the holding of abandonment.

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

This application became abandoned on September 14, 2009, for failure to file a timely response to the non-Final Office Action mailed June 11, 2009, which set a three month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed December 28, 2009.

Petitioner argues however that a response was filed on December 11, 2009 with a three month extension of time and provides copies of the response which bears a certificate of mail dated December 11, 2009, filed with a copy of a post card receipt post marked on December 18, 2009 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, a response was filed on December 11, 2009. As well, a copy of the post-card receipt, date stamped by the USPTO on December 18, 2009 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed December 28, 2009 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1632 for treatment of the response filed December 18, 2009 with a certificate of mail dated December 11, 2009, as appropriate.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Woodcock Washburn
One Liberty Place-46th Floor
Philadelphia, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Mark Enzmann	:	
Application No. 11/204,886	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. BELL-0361	:	FROM RECORD
	:	

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 2, 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 Steven J. Rocci. on behalf of all attorneys of record.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor 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 that 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: Mark Enzmann
205 Sailwood Court
Roswell, GA 30076

cc: Potomac Patent Group
P.O. Box 270
Fredericksburg, VA 22404

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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WOODCOCK WASBURN LLP
ONE LIBERTY PLACE-46TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Busayapongchai et al.	:	DECISION ON PETITION
Application No. 11/204,887	:	TO WITHDRAW
Filed: August 15, 2005	:	FROM RECORD
Attorney Docket No. BELL-0358/00409C1	:	

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 2, 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 Jonathan M. Waldman on behalf of all attorneys of record who are associated with Customer Number 38952.

All attorneys/agents associated with Customer Number 38952 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

SENIS BUSAYAPONGCHAI
3736 STURBRIDGE COURT
TUCKER, GA 30084

POTOMAC PATENT GROUP, PLLC
P.O. BOX 270
FREDERICKSBURG VA 22404

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BOHAN, MATHERS & ASSOCIATES, LLC
P.O. Box 17707
Portland, ME 04112-8707

FEB 28 2007

In re Application of:	:	
BICKEL *et al.*	:	DECISION ON PETITION
Serial No.: 11/204,944	:	TO MAKE SPECIAL
Filed: August 16, 2005	:	
Attorney Docket No.: **04-155**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 16, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a driver's license for the inventor, James Richardson, showing that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

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

DECISION ON PETITION ROUTING SLIP

Application No.: 11204944

Art Unit: 2877

For Director's Secretary:

☑ **Granted** ☐ **Denied** ☐ **Dismissed**

- ☐ Decision to be reviewed and signed by Director
- ☐ Mail Decision & enter decision in Petition Database
- ☐ Enter Change of Address in PALM
- ☐ Enter Paper Nos [ ] and the decision in PALM
- ☑ Other

please mail and flip the flag

For TECH Support Staff:

- ☐ Process and enter Paper Nos.
- ☐ Charge [ ] fee to D.A. No
- ☐ Other
- ☐ Forward file to

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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ROBERT E. HOWARD
P.O. BOX 10345
EUGENE OR 97440-2345

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel Biagi et al	:	
Application No. 11/204,946	:	DECISION ON PETITION
Filed: August 15, 2005	:	
For: SANITARY PLUNGER	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed November 5, 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 the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 04/21/2010

Applicant	: Sang-Jin Byun	: DECISION ON REQUEST FOR
Patent Number	: 7643598	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/204,957	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **996** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 05/18/2010

Applicant : Sang-Jin Byun
Patent Number : 7643598
Issue Date : 01/05/2010
Application No : 11/204,957
Filed : 08/16/2005

: 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 **1067** 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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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of	:
Harder, Curlett, Padgett, and	: DECISION REFUSING STATUS
Curlett	: UNDER 37 CFR 1.47(a)
Application No. 11/204,981	:
Filed: 16 August, 2005	:
Atty Docket No. 37163.6	:

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

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 16 August, 2005, without an executed oath or declaration. Accordingly, on 15 September, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 12 April, 2005, a petition under 37 CFR 1.47(a), the statutory basic filing fee, surcharge, and a five (5) month extension of time and fee were filed. A declaration naming Nathan J. Harder, Harry B. Curlett, Paul O. Padgett, and Samuel R. Curlett, signed by all inventors except Harry B. and Samuel R. Curlett on behalf of themselves and non-signing joint inventors Harry B. and Samuel R. Curlett, was also filed.

Petitioners assert that joint inventors Harry B. and Samuel R. Curlett have has failed to sign the declaration. Petitioners state in the petition that documents have been forwarded to the non-signing inventors, but that the documents were returned as undeliverable and that the inventors have failed to return a signed declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that the non-signing inventors were sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Specifically, the petition states that the application as filed was sent only to non-signing inventor Samuel R. Curlett at an address other than the last known address, and was returned as undeliverable. None of the correspondence sent to the non-signing inventors at their last known address appears to have included the application papers (specification, including the claims, and drawings, if any).

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor(s) for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor(s). If the inventor(s)

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[1] MPEP 409.03(d).

refuse(s) in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[2] Specifically, there are uninitialed and/or undated alteration(s) in the signature block(s) for joint inventor Padgett. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[3]

A petition fee of $200.00 is required for a petition under 37 CFR 1.47. The balance due of $70.00 will be charged to counsel's deposit account as authorized in the present petition.

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

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

By 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See 37 CFR 1.52(c).
[3] 37 CFR 1.67(a)(2).

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

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OFFICE OF PETITIONS

In re Application of	:
Harder, Curlett, Padgett, and	: DECISION REFUSING STATUS
Curlett	: UNDER 37 CFR 1.47(a)
Application No. 11/204,981	:
Filed: 16 August, 2005	:
Atty Docket No. 37163.6	:

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 10 October, 2006.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 16 August, 2005, without an executed oath or declaration. Accordingly, on 15 September, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 12 April, 2006, a petition under 37 CFR 1.47(a), the statutory basic filing fee, surcharge, and a five (5) month extension of time and fee were filed. A declaration naming Nathan J. Harder, Harry B. Curlett, Paul O. Padgett, and Samuel R. Curlett, signed by all inventors except Harry B. and Samuel R. Curlett on behalf of themselves and non-signing joint inventors Harry B. and Samuel R. Curlett, was also filed. The petition was dismissed on 8 June, 2006.

On 10 October, 2006, the present petition was filed, accompanied by a two (2) month extension of time.

Petitioners again assert that joint inventors Harry B. Curlett and Samuel R. Curlett have failed to sign the declaration.

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

(1) proof that the non-signing inventor(s) cannot be reached or located, notwithstanding diligent effort, or refuse(s) 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 surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that the non-signing inventors were sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1]

While petitioners have provided a copy of a letter dated 12 September, 2005, to Thomas E. Hardisty of Particle Drilling Technologies, Inc., which indicates that a copy of said letter with enclosures was sent to each inventor, it is still unclear whether the copies sent to the non-signing inventors were sent to their last known addresses, and whether the enclosures sent included a copy of the application papers (specification, including the claims, drawings, if any, and the declaration).

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor(s) for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Furthermore, petitioners have provided a declaration of facts by counsel's legal assistant, Stacy Lanier, in which Ms. Lanier states that she received a call from non-signing inventor Harry B. Curlett in which he stated that neither he nor non-signing

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[1] MPEP 409.03(d).

inventor Samuel R. Curlett would sign the declaration. Assuming, *arguendo*, the application papers had been properly presented, this declaration, in and of itself, would not be sufficient to show a refusal to sign by non-signing inventor Samuel L. Curlett, as each inventor must make a refusal on his or her own behalf.

Before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor(s). If the inventor(s) refuse(s) in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Harder, Curlett, Padgett, and	:	
Curlett	:	DECISION ACCORDING STATUS
Application No. 11/204,981	:	UNDER 37 CFR 1.47(a)
Filed: 08/16/2005	:	
Atty Docket No. 37163.6		

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 16 April, 2007.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Harry B. Curlett and Samuel R. Curlett, have refused to sign and return the declaration naming them as joint inventors along with Nathan J. Harder, and Paul O. Padgett after having been sent a copy of the application. Specifically, petitioners have shown, that a copy of the application was sent to the non-signing inventors' last known addresses. The non-signing inventors, however, failed to sign and return the declaration.

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

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

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

The application is being referred to Technology Center Art Unit 3672 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: KING & SPALDING LLP
1100 LOUISIANA ST, STE. 4000
HOUSTON TX 77002-5213

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Harry B. Curlett
3103 Big Horn Ave
Cody WY 82414-9250

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of
Harder et al.
Application No. 11/204,981
Filed: 16 August, 2005
For: IMPACT EXCAVATION SYSTEM AND METHOD WITH TWO-STAGE INDUCTOR

Dear Mr. Curlett:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DIW Jun-07

Samuel R. Curlett
539 Hamilton Way, Apt., #1
Powell WY 82435

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of
Harder et al.
Application No. 11/204,981
Filed: 16 August, 2005
For: IMPACT EXCAVATION SYSTEM AND METHOD WITH TWO-STAGE INDUCTOR

Dear Mr. Curlett:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 25 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Nathan J. Harder, et al.	:	
Application No. 11/204,981	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. 37163.6	:	FROM RECORD
	:	

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 31, 2007.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD MATTINGLY
KING & SPALDING, LLP
1100 LOUISANA
SUITE 4000
HOUSTON, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-08

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED
JUN 2 0 2008
OFFICE OF PETITIONS

In re Application of	:	
Bolton et al.	:	DECISION ON PETITION
Application Number: 11/204983	:	
Filing Date: 08/16/2005	:	
Attorney Docket Number: CM2901M	:	

This is a decision in reference to the petition to withdraw the holding of abandonment filed on February 15, 2008, which is treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned on September 13, 2007, for failure to timely submit a reply to the non-final Office action mailed on June 12, 2007, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on December 17, 2007.

Petitioners assert that the application papers as filed specified that the address associated with Customer Number 27752 be used as the correspondence address, but that the Office inadvertently entered Customer Number 22752 as the correspondence address, and that the Office action mailed on June 12, 2007, was therefore mailed to the wrong address.

A review of the official record reveals on August 16, 2005, a transmittal letter was filed specifying that the address associated with Customer Number 27752 be used as the correspondence address. On June 12, 2007, however, the non-final Office action was mailed to the address associated with Customer Number "22752" (*sic*).

As such, the showing of record is that the Office erred not entering the proper Customer Number in the PALM database prior to

the mailing of the non-final Office action mailed on June 12, 2007.

As the showing of record is that the non-final Office action was mailed to an incorrect address due to Office error, there is an irregularity in the mailing of the non-final Office action mailed on June 12, 2007. The Office action was not received because it was not mailed to the proper correspondence address.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office apologizes for any inconvenience to petitioner.

The Customer Number has been corrected in Office records.

The petition is **GRANTED.**

The application file is being referred to the Technology Center Art Unit 1796 for remailing of the Office action mailed on June 12, 2007. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Ralph F. Rogers	:	
Application No. 11/204,987	:	ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No. PTT.P.25	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed November 6, 2006. A Notice of Abandonment was mailed on May 31, 2007.

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

This application file is being referred to Technology Center Art Unit 3683 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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OCT 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Cheng-Li Lin	:	DECISION ON PETITION
Application No. 11/204,992	:	TO WITHDRAW
Filed: August 17, 2005	:	FROM RECORD
Attorney Docket No. 98730-000149/US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2009.

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

A review of the file record indicates that on August 24, 2009 the power of attorney to Harness, Dickey & Pierce, P.L.C. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sun Microsystems Inc
10 Network Circle
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-09

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

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	DECISION ON PETITION TO
Application Number: 11/204993	:	WITHDRAW HOLDING OF
Filing Date: 08/17/2005	:	ABANDONMENT
Attorney Docket Number:	:	
P70149US1	:	

This is a decision on the petition filed on January 27, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on January 22, 2009, stating that the application was abandoned for failure to timely file a reply to the non-final Office action mailed on July 14, 2008.

Petitioner asserts that a timely reply to the non-final Office action mailed on July 14, 2008, was in fact filed on January 14, 2009.

A review of the record reveals that on January 14, 2009, a reply was filed, including an amendment and authorization to charge a three (3) month extension of time fee to counsel's deposit account. The fee has been received.

As such, the showing of record is that a timely and proper reply to the non-final Office mailed on July 14, 2008, has been filed. Therefore, there is no abandonment in fact.

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

The Office apologizes for any inconvenience to petitioners.

The application is referred to Technology Center Art Unit 2161 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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DEC 03 2008

In re Application of	:	
Zviman et al.	:	
Application No. 11/204,998	:	DECISION ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. JHN-4760-2	:	

This is a decision on the petition under 37 CFR 1.182, filed November 7, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

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

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

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/204,998	08/17/2005	3761	800	JHN-4760-2	14	1

CONFIRMATION NO. 4540

CORRECTED FILING RECEIPT

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

OC000000033373678

Date Mailed: 12/01/2008

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)

Menekhem M. Zviman, Belcamp, MD;
Henry R. Halperin, Baltimore, MD;

Power of Attorney: The patent practitioners associated with Customer Number 23117

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/619,819 10/18/2004
and claims benefit of 60/602,159 08/17/2004

Foreign Applications

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 **US 11/204,998**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

HYPOTHERMIA INDUCTION DEVICE

Preliminary Class

422

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

COPY MAILED
JUN 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Harder, Curlett, Padgett, and Hazel :
Application No. 11/205,006 :
Filed: August 16, 2005 :
Attorney Docket No. 37163.9 :
For: Impact Excavation System and :
Method With Injection System :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 12, 2006.[1]

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

Facts:

The application was filed on August 16, 2005.

An Application Data Sheet was filed on August 16, 2005. A Supplemental Application Data Sheet was filed on October 11, 2005. Both papers listed the following inventors:

1. Nathan J. Harder
2. Harry B. Curlett
3. Paul O. Padgett
4. Butch Hazel

A declaration signed by Harder and Padgett was filed with the instant petition. Per the declaration signed by Harder and Padgett, the inventors for the application are Nathan J. Harder, Harry B. Curlett, Paul O. Padgett, and Butch Hazel.

[1] 37 CFR 1.47(b) is only available where none of the inventors sign the oath or Declaration. Since at least one of the named inventors has executed the application papers, the petition is appropriately treated under 37 CFR 1.47(a). MPEP 409.03(b).

The declaration signed by two of the inventors fails to list a mailing address for inventor Butch Hazel.

The petition discusses attempts made to obtain the signatures of Harry B. Curlett and Samuel Curlett. The petition demonstrates Harry B. Curlett received a copy of the declaration and failed to return a signed copy of the declaration. The petition does not demonstrate Harry B. Curlett was ever sent a copy of the application papers for the instant continuation-in-part application.

Discussion:

A grantable petition under 37 CFR 1.47(a) requires proof that the non-signing inventors cannot be found or reached after diligent effort or that the inventors refuse to sign after having been presented with the application papers (specification, claims, and drawings).

Petitioner has failed to discuss any steps taken to obtain inventor Hazel's signature.

As to the steps taken to obtain Harry Curlett's signature, Office policy requires a copy of an application be presented to an inventor in order to establish constructive refusal to sign a declaration. Petitioner must establish the inventor was able to sign the declaration but refused to sign the declaration. An inventor is unable to sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. In addition, until an inventor reviews the papers and reads the specification and claims, an inventor cannot know if he or she is actually an inventor of the claimed invention. The petition fails to establish the non-signing inventor was presented with a copy of the application papers.

Petitioner should send a copy of the application to the inventor along with instructions setting a deadline for the return of a signed declaration. The letter to the inventor should state that, if petitioner receives no reply from the inventor, petitioner will interpret the lack of reply as a refusal to sign the declaration. This sort of ultimatum lends support to a finding of refusal by conduct when a response is not received from an inventor. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

A grantable petition under 37 CFR 1.47(a) requires a proper oath or Declaration executed by the available joint inventors. The declaration fails to list a mailing address for Hazel. Petitioner must provide Hazel's last known mailing address via a supplemental declaration or a supplemental ADS.

A grantable petition under 37 CFR 1.47(a) requires a fee of $200. Petitioner submitted $130. Therefore, an additional $70 will be charged to petitioner's deposit account.

Petitioner should note that the inventors of record at the current time are Nathan J. Harder, Harry B. Curlett, Paul O. Padgett, and Butch Hazel. Samuel R. Curlett is not an inventor of record.

If petitioner wishes to add Samuel R. Curlett as an inventor and/or delete Butch Hazel, a petition under 37 CFR 1.48(a) must be filed.[2]

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[2] Where the statement of the lack of deceptive intent of the inventor to be added or deleted cannot be obtained, a petition under Rule 183 requesting waiver of that requirement may be possible. In those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party may be appropriate upon a showing of such refusal or inability to reach the inventor.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 03 2007

OFFICE OF PETITIONS

In re Application of :
Harder, Curlett, Padgett, and Hazel :
Application No. 11/205,006 :
Filed: August 16, 2005 :
Attorney Docket No. 37163.9 :
For: Impact Excavation System and :
Method With Injection System :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed October 10, 2006.

The petition is **granted**.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Butch Hazel
19 Branding Iron Trail
Cody, WY 82414

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JAN 0 3 2007

OFFICE OF PETITIONS

Letter

In re Application of :
Harder, Curlett, Padgett, and Hazel :
Application No. 11/205,006 :
Filed: August 16, 2005 :
Attorney Docket No. 37163.9 :
For: Impact Excavation System and :
Method With Injection System :

Mr. Hazel:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers in the file wrapper. 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).

General requests for information regarding the application should be directed to the File Information Unit at (703) 308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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

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

Harry B. Curlett
3103 Big Horn Avenue
Cody, WY 82414

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JAN 0 3 2007

OFFICE OF PETITIONS

Letter

In re Application of :
Harder, Curlett, Padgett, and Hazel :
Application No. 11/205,006 :
Filed: August 16, 2005 :
Attorney Docket No. 37163.9 :
For: Impact Excavation System and :
Method With Injection System :

Mr. Curlett:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers in the file wrapper. 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).

General requests for information regarding the application should be directed to the File Information Unit at (703) 308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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

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

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MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of

HARDER, Nathan J. et al.
Application No. 11/205,006
Filed: August 16, 2005
Attorney Docket No. **37163.9**

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 31, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, application is being transferred to another law firm, 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING, L.L.P.
1100 LOUISIANA, SUITE 4000
HOUSTON, TX 77002

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. 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	11/205,006
Filing Date	8/16/05
First Named Inventor	Nathan Harder
Art Unit	3672
Examiner Name	Nicole A. Coy
Attorney Docket Number	37163.9

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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 000027683

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: the file is being transferred to another law firm.

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	King & Spalding, L.L.P., Todd Mattingly				
Address	1100 Louisiana, Suite 4000				
City	Houston	State	TX	Zip	77002
Country	United States of America				
Telephone	713-751-3237	Fax	713-751-3290		

Signature	DRHof		
Name	Dave R. Hofman	Registration No.	55,272
Date	January 30, 2007	Telephone No.	713-547-2523

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.

H656111

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SEP 14 2009

OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

In re Application of

HARDER, Nathan J. et al.
Application No. 11/205,006
Filed: August 16, 2005
Attorney Docket No. **66015.105038**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2009.

The request is **APPROVED**.

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

The request was signed by Jeffrey Whittle on behalf of all attorneys of record who are associated with customer No. 35979. All attorneys/agents associated with the Customer Number 35979 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. There is an outstanding Office action mailed May 08, 2009 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PARTICLE DRILLING TECHNOLOGIES, INC.**
5611 BAIRD CT.
HOUSTON TX 77041

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DIW Oct-06

MARK E. UNGERMAN
FULBRIGHT & JAWORSKI L.L.P.
801 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2623

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OCT 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Scott Stogel	:	
Application No. 11/205,016	:	DECISION ON PETITION
Filed: 17 August, 2005	:	
Atty Docket No. 410.013	:	

This is a decision on the paper styled under 37 CFR 1.78(a)(6), filed on 11 July, 2005, which is treated as a petition under 37 CFR 1.181.

The petition is **granted**.

Petitioner requests that a claim to the benefit under 35 U.S.C. § 119(e) of prior provisional application No. 60/602,042 be accepted.

A review of the application file reveals that although no claim to the above-identified application was present on filing, a preliminary amendment to the specification was filed on 19 October, 2005, claiming the benefit of the prior-filed provisional application.

As the claim filed on 19 October, 2005, was made within four (4) months of the filing date of the present application, no petition under 37 CFR 1.78(a)(6) is required.

As the petition under 37 CFR 1.78(a)(6) is not required, the petition fee submitted with the present petition is unnecessary and will be credited to counsel's deposit account.

The priority claim has been entered in Office records. A corrected Filing Receipt reflecting the claim to priority is enclosed with this decision.

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

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

Encl: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/205,016	08/17/2005	2616	825	410.013	9	33	2

CONFIRMATION NO. 4554

CORRECTED FILING RECEIPT

OC000000020701241

Mark E. Ungerman
FULBRIGHT & JAWORSKI L.L.P.
801 Pennsylvania Avenue, N.W.
Washington, DC 20004-2623

Date Mailed: 10/04/2006

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)

Scott Stogel, Westport, CT;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/606,142 09/01/2004

Foreign Applications

If Required, Foreign Filing License Granted: 09/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/205,016

Projected Publication Date: 01/11/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Apparatus and method for audio communications

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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

JAN 27 2006

TECHNOLOGY CENTER 2100

In re Application of: YAGAWA
Application No. 11/205,024
Filed: August 17, 2005
For: SYSTEM AND METHOD FOR MIGRATING A REPLICATION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 21 November 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/205,037	08/17/2005	Yasuhiko Nagata	056205.56745US	4570

7590 06/22/2009
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
PASCHALL, MARK H

ART UNIT	PAPER NUMBER
3742	

MAIL DATE	DELIVERY MODE
06/22/2009	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
06/24/2009 NFARMER 0000167725

CHECK Refund Total: $500.00

Adjustment date: 06/24/2009 NFARMER
08/18/2005 MBIZUNES 00000049 11205037
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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

Mail Date: 04/21/2010

Applicant	: Ryota Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7636121	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,040	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of	:	
Shunpei Yamazaki	:	
Application No. 11/205,083	:	DECISION GRANTING PETITION
Filed: August 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7569	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 14, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2879 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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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Chris M. Farnet	: DECISION ON REQUEST FOR
Patent Number	: 7635765	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Nixon & Vanderhye, PC
901 North Glebe Road
11th Floor
Arlington, VA 22203

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Mirna Bonaldo et al.	:	
Application No. 11/205,117	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 3673-32	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 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 the attorneys and/or agents cannot be withdrawn using a Customer Number because the practitioners were not appointed by Customer Number.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Katia F. de Almeida**
Bhering, Almeida & Associados
Rua Beneditinos, 10-110 andar
Rio de Janeiro, 20081-050
RJ Brazil

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Mirna C. Bonaldo et al.	:	
Application No. 11/205,117	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 3673-32	:	FROM RECORD
	:	

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 25, 2006.

The request is **APPROVED**.

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

The request was signed by B.J. Sadoff 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 address of record has been changed to the first named inventor.

The application became abandoned for failure to reply to the non-final Office action mailed July 16, 2007.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mirna C. Bonaldo**
Av. Brasil 4365, Castelo Mourisco, Manguinhos
Manguinhos, Rio de Janeiro, RJ 21045-900
Brazil

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/205,117	08/17/2005	Mirna C. Bonaldo	3673-32

CONFIRMATION NO. 3493

POWER OF ATTORNEY NOTICE

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

OC000000027305624

Date Mailed: 12/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2006.

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

/tswilliams/

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Ichiro Yamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7595538	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **919** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

MAILED

JAN 22 2010

OFFICE OF PETITIONS

In re Patent No. 7599525	:	
Issue Date: 10/06/2009	:	
Application Number: 11/205145	:	ON PETITION
Filing or 371(c) Date: 08/17/2005	:	
Attorney Docket Number: 98730-000155/US	:	

This is a decision on the paper filed on October 14, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The processing fee of $130.00 pursuant to 37 CFR 1.17(i) will be charged to counsel's deposit account, as authorized in the subject request.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

BLAKE, CASSELS & GRAYDON LLP
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO ON M5L 1A9
CANADA

In re Patent No. 7367257	:	
Issued: 05/06/2008	:	
Application No. 11205191	:	NOTICE
Filed: 08/17/2005	:	
Attorney Docket No. 67559/00041	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood
Douglas I. Wood
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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Vijay Phadke	: DECISION ON REQUEST FOR
Patent Number	: 7616464	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,209	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Carmen Patti Law Group, LLC
One N. LaSalle Street
44th Floor
Chicago, IL 60602

Mail Date: 04/21/2010

Applicant	: Markus Jenisch	: DECISION ON REQUEST FOR
Patent Number	: 7590847	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1033** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Bernhard Rubenach	: DECISION ON REQUEST FOR
Patent Number	: 7627932	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1146** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JJGJR.: 02-06

Paper No: __

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SAN FRANCISCO CA 94111-3834

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FEB 28 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cameros et al. :
Application No. 11/205,237 :
Filed: 15 August, 2005 :
Attorney Docket No. 022193-091230US :

This is a decision on the petition filed on 19 December, 2005, under 37 C.F.R. §1.47(a).

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

NOTES:

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

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

BACKGROUND

The record indicates:

- the instant application was filed on 15 August, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 2 September, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 19 December, 2005, Petitioner Brian N. Young(Reg. No. 48,602) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventor Cameros (for himself and on behalf of non-signing co-inventor Wade Albright (Mr. Albirght), and Petitioner makes no documentary showing that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Albright, nor of a diligent effort to ascertain a current/valid last known address for Mr. Batts to which to direct the aforementioned documents as required by law.

Petitioner is reminded that the correct mailing information is required in order that the Office undertake it's legal responsibility to attempt Notice to the non-signing inventor via the U.S. Postal Service.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including

> the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in §1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

> in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands is deficient as to document support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

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[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJR.: 02-07

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OFFICE OF PETITIONS

In re Application of :
Cameros et al. :
Application No. 11/205,237 :
Filed: 15 August, 2005 :
Attorney Docket No. 022193-091230US :

ON PETITION

This is a decision on the petition filed on 31 July, 2006, under 37 C.F.R. §1.47(a).

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

The Office regrets the delay in addressing this matter, however, the petition was only presented to the attorneys in the Office of Petitions at this writing.

BACKGROUND

The record indicates:

- the instant application was filed on 15 August, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 2 September, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 19 December, 2005, Petitioner Brian N. Young (Reg. No. 48,602) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventor Cameros (for himself and on behalf of non-signing co-inventor Wade Albright (Mr. Albright), and Petitioner makes no documentary showing that the entire application (description, claims, abstract and

drawings) was sent to non-signing co-inventor Mr. Albright nor of a diligent effort to ascertain a current/valid last known address for Mr. Albright to which to direct the aforementioned documents as required by law–and so the petition was dismissed on 28 February, 2006;

- on 31 July, 2006, Petitioner filed the instant petition seeking to cure the above-described deficiencies, along with what appears to be several copies of the application, a copy of the 12 October, 2005, letter transmitting the application to the non-signing inventor Mr. Albright, a statement by C. Bart Sullivan (Reg. No. 41,516), who avers as to the efforts made to ascertain Mr. Albright's current/reasonably last-known mailing address, and a statement of that address, along with evidence of efforts to contact Mr. Albright once again.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, 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;

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

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(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-07

Paper No: __

WADE ALBRIGHT
3667 HILLSBOROUGH DRIVE
CONCORD, CA 94520

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OFFICE OF PETITIONS

COMMUNICATION

In re Application of	:	
Cameros et al.	:	
Application No. 11/205,237	:	
Filed: 15 August, 2005	:	
Attorney Docket No. 022193-091230US	:	

Dear Wade Albright:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

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

---

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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DR. ALLAN COOPERSMITH
5757 DECELLES
520
MONTREAL QC H3S-2C3 CA CANADA

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JAN 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Allan COOPERSMITH	:	
Application No. 11/205,251	:	DECISION ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 25, 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 September 26, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 810; and (3) a proper statement of unintentional delay.

The Statutory Terminal Disclaimer filed November 14, 2007 is unnecessary. The fee of $70 will be credited to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition and in the submission required by 37 CFR 1.114 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 and the submission; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 3732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Christopher Bottoff

for David Bucci
Petitions Examiner
Office of Petitions

Cc: Allan Coopersmith
245 Victoria Suite 620
Westmount Quebec H3Z 2M6
Canada

Cc: Jonathan David Cutler
OSLER, HOSKIN & HARCOURT LLP
1000 de la Gauchetiere St. West
Suite 2100
Montreal, Quebec H3B 4W5
Canada

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

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OFFICE OF PETITIONS

In re Application of	:	
Ki-Jong Eom	:	
Application No.: 11/205,259	:	ON PETITION
Filed: August 15, 2005	:	
Attorney Docket No.: 55478/P849	:	

This is a decision on the petition, filed December 15, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2889 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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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of
DONOVAN, John et at.
Application No. 11/205,277
Filed: August 15, 2005
Attorney Docket No. **025914-000100US**

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 22, 2007.

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 June 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BLAKELY SOKOLOFF TAYLOR & ZAFMAN**
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of :
John DONOVAN et al. :
Application No. 11/205,277 :
Filed: August 15, 2005 :
Attorney Docket No. 6783P105 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 05, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 08, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 09, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee $1,500.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 08, 2006 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 2617 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JOHN P. LUTHER, ESQ.
JENKENS & GILCHRIST
SUITE 2600
225 W. WASHINGTON STREET
CHICAGO, IL 60606

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Davidson et al.	:	
Application No. 11/205,288	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. 68287-00002USPT	:	

This is a decision on the petitions under 37 CFR §1.102(d), filed October 31, 2005 to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement, and based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition under 37 CFR 1.102(d), Section II, 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.

In view of the above, the petition under 37 CFR 1.102(d), Section I, is **DISMISSED AS MOOT**, since the instant application has already been made special under Section II.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3711 for expedited prosecution.

Liana Walsh
Petitions Examiner
Office of Petitions

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ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

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AUG 1 8 2008

In re Application of	:	
WELTON, et al.	:	
Application No. 11/205,332	:	DECISION GRANTING PETITION
Filed: August 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2005-IP-016999U1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Ms. Elizabeth L. Durham appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. If Ms. Durham desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3676 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

Cc: ELIZABETH L. DURHAM
BAKER BOTTS LLP
910 LOUISIANA/ONE SHELL PLAZA
HOUSTON, TX 77002

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

Mail Date: 04/20/2010

Applicant	: Thomas D. Welton	: DECISION ON REQUEST FOR
Patent Number	: 7595280	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **819** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER CO 80201-1920

In re Application of	:	
Michael A. Robinson et al	:	
Application No. 11/205,334	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. 10021169-5	:	

This is a decision on the petition, filed August 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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BELL BOYD & LLOYD LLC
P.O. BOX 1135
CHICAGO, IL 60690-1135

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In re Application of	:	
Richard Armstrong	:	
Application No. 11/205,349	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 116543-1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 17, 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 Richard Armstrong 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 3616 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET,
SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
David **ISATT, et al**	:	
Application No. 11/205,351	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 0A757-74579B	:	FROM RECORD
	:	

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 18, 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 David E. Mixon on behalf of all attorneys of record associated with Customer Number 32009.

All attorneys of record associated with Customer Number 32009 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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: DAVID IZATT
1525 PEREIMTER PARKWAY,
SUITE 225
HUNTSVILLE, AL 35806

cc: MARC WINN
1349 WEST PEACHTREE STREET,
SUITE 1740
ATLANTA, GA 30309

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BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST, SUITE 900
HUNTSVILLE, AL 35801

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In re Application of	:	
David **IZATT, et al**	:	CORRECTED
Application No. 11/205,351	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 0A757-74579B	:	FROM RECORD
	:	

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 18, 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 David E. Mixon on behalf of all attorneys of record associated with Customer Number 32009.

All attorneys of record associated with Customer Number 32009 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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: DAVID IZATT
1525 PEREIMTER PARKWAY,
SUITE 225
HUNTSVILLE, AL 35806

cc: MARC WINN
1349 WEST PEACHTREE STREET,
SUITE 1740
ATLANTA, GA 30309

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OCT 0 1 2008

Philip E. Hansen
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of	:
Mark P. Wentland	:Decision on Petition
Serial No.: 11/205354	:
Filed : 17 August 2005	:
Attorney Docket No.: 0094.045D	:

This letter is in response to the Petition under MPEP 1002.02(c) filed on 10 June, 2008 requesting reconsideration of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is eligible for U.S. restriction and election of species practice.

On 21 June 2007, the examiner mailed restriction requirement in which claims 32-33 and 51-54 were divided in 3 groups as follows:

> Group I, Claims 32-33 and 51-54, where B was limited to benzazocine
> Group II, Claims 32-33 and 51-54, where B was limited to morphinan
> Group III, Claims 32-33 and 51-54 where B was limited to any residue other than benzazocine or morphinan.

On 21 August 2007, Applicants elected Group II with traverse.

On 29 October 2007, the Examiner issued a non-final Office action rejecting claims 32-33 and 51-54 under 35 U.S.C. 112, 1st and 2nd paragraphs and under 35 U.S.C. 102(b) as being anticipated by Ida et al and under 35 U.S.C. 102(b) as being anticipated by McCurdy et al. The examiner stated that because applicant did not particularly traverse, the arguments are not persuasive and the restriction was made FINAL. The examiner required applicants to amend the claims to the elected group and cancel the non-elected subject matter.

On 25 January 2008, Applicants filed a response to the action, cancelled claims 33, 51 and 52, amended claims 32 and 53 and added new claims 55-56.

On 11 April 2008, in a non-final Office action, the examiner maintained the rejection under 35 U.S.C. 112, 1st and 2nd paragraphs, stating these rejections could be overcome if the claim were amended to the elected group. The examiner also added a new rejection of the claims under obviousness type double patenting.

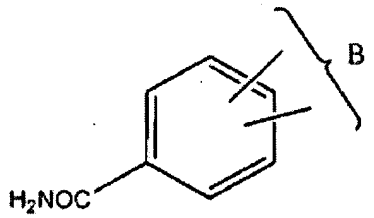
On 10 June 2008, applicants filed this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.

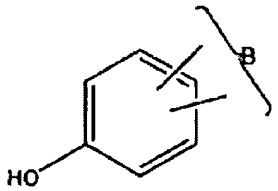
Claim 32 recites:

32. (currently amended) A method for treating a disease or condition by altering a response mediated by an opioid receptor comprising bringing into contact with said opioid receptor a compound having the formula



wherein

B represents an appropriate residue such that an existing compound



alters a response mediated by said opioid receptor **and wherein said disease or condition is chosen from the group consisting of pain, obesity and drug addiction.** ~~with the proviso that~~

Although the appropriate residue for "B" is not further defined in either the independent or dependent claims, the specification sets forth various options for "B" such as benzazocines, morphinans, and other compounds which defy easy description using common Markush language. As such, all the claims are generic with respect to residue "B" because they all encompass any particular species of B disclosed in the specification that performs the functional language of altering response mediated by said opioid receptor.

MPEP 806.04(d) sets forth the definition of a generic claim

> In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of these views; but the fact that a claim does so read is not conclusive that it is generic. It may define only an element or subcombination common to the several species.
>
> In general, a generic claim should require no material element additional to those required by the species claims, and each of the species claims must require all the limitations of the generic claim.

MPEP 806.04(d) goes on to provide guidance for election of species and examination practice of species claims encompassed by allowable generic claims

> Once a generic claim is allowable, all of the claims drawn to species in addition to the elected species which require all the limitations of the generic claim will ordinarily be allowable over the prior art in view of the allowability of the generic claim, since the additional species will depend thereon or otherwise require all of the limitations thereof. When all or some of the claims directed to one of the species in addition to the elected species do not require all the limitations of the generic claim, see MPEP § 821.04(a).

MPEP 803.02 addresses the practice for Markush-type claims:

> A Markush-type claim recites alternatives in a format such as "selected from the group consisting of A, B and C." See Ex parte Markush, 1925 C.D. 126 (Comm'r Pat. 1925).
> ...
>
> This subsection deals with Markush-type generic claims which recite a plurality of alternatively usable substances or members. In most cases, a recitation by enumeration is used because there is no appropriate or true generic language.
> ...
> As an example, in the case of an application with a Markush-type claim drawn to the compound X-R, wherein R is a radical selected from the group consisting of A, B, C, D, and E, the examiner may require a provisional election of a single species, XA, XB, XC, XD, or XE.

Claim 32 does not recite a Markush list of options for "B". Instead, Claim 32 uses "true generic language" of "B represents an appropriate residue such that an existing compound alters a

response mediated by said opioid receptor." As such, Claim 32 is considered a "true generic claim" and not a "Markush claim" with respect to "B".

MPEP 808.01 provides guidance for true generic claims and states in part

> In applications where only generic claims are presented, restriction cannot be required unless the generic claims recite or encompass such a multiplicity of species that an unduly extensive and burdensome search would be necessary to search the entire scope of the claim. See MPEP § 803.02 and § 809.02(a).

MPEP 809.02(a) sets forth the practice for election of species for generic claims which are not Markush claims:

> Where restriction between species is appropriate (see MPEP § 808.01(a)) the examiner should send a letter including only a restriction requirement or place a telephone requirement to restrict (the latter being encouraged). See MPEP § 812.01 for telephone practice in restriction requirements.
>
> Action as follows should be taken:
>
> (A) Identify generic claims or indicate that no generic claims are present. See MPEP § 806.04(d) for definition of a generic claim.
>
> (B) Clearly identify each (or in aggravated cases at least exemplary ones) of the disclosed species, to which claims are to be restricted. The species are preferably identified as the species of figures 1, 2, and 3 or the species of examples I, II, and III, respectively. In the absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each species identified. If the species cannot be conveniently identified, the claims may be grouped in accordance with the species to which they are restricted. Provide reasons why the species are independent or distinct.
>
> (C) Applicant should then be required to elect a single disclosed species under 35 U.S.C. 121, and advised as to the requisites of a complete reply and his or her rights under 37 CFR 1.141.

Because no species claims are present, the restriction requirement should have been formulated as follows:

> Claims 32 and 53-56 are generic to the following disclosed patentably distinct species of "B residues which represents an appropriate residue such that an existing compound alters a response mediated by said opioid receptor."
>
> The species are patentably distinct because each require a mutually exclusive characteristic of a chemical structure that is not required for the other species and there is nothing on the record to indicate that each of the species would be obvious, under the meaning of 35 U.S.C. 103(a) over each other.

Moreover, it would be burdensome to examine all the species together because of their different classification and because the search for one of the inventions in a manner is not likely to result in finding art pertinent to the other species (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even if any of the species are classified together.

Because these species are independent or distinct for the reasons given above and there would be a serious burden on the examiner if election of a single species were not required because the inventions require a different field of search (see MPEP § 808.02), election of species requirement for examination purposes as indicated is proper.

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). MPEP 803.

Should applicant traverse on the ground that the species are not patentably distinct under the meaning of 35 U.S.C. 103(a), applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable generic claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

MPEP 818.01 explains how election becomes fixed when the claims in an application have received an action on their merits by the Office. MPEP 819 states that the general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter.

Please note that Applicants are not being provided the opportunity to switch their election in response to this petition decision because Applicants have already received Office actions on their election of the disclosed species of "morphinan."

Because the election of species requirement is predicated upon the non-allowance of the generic claim, MPEP 809 specifically permits applicants to retain claims directed to their non-elected inventions.

> Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The requirement to elect an invention from Groups I, II or III has been withdrawn.

In its place, the Office has set forth an election of species requirement for one of the disclosed species of residue "B".

Please note that the elected residue "morphinan" will be maintained for further examination under the practice set forth in MPEP 809.

Applicants are required to file any request for reconsideration of this petition decision within two (2) months of the mail date of this decision.

Applicants remain under obligation to respond in a timely manner to the Office action mailed 11 April 2008.

Upon applicants' response, the application will be forwarded to the examiner for the preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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Salt Lake City UT 84111

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SEP 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Scott E. Budge et al. :
Application No. 11/205,366 : DECISION ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. **17311.3.1.1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 8, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2009. Accordingly, the date of abandonment of this application is July 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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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	: Scott E. Budge	: DECISION ON REQUEST FOR
Patent Number	: 7602982	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **54** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Patent No. : 7,444,600 B2
Serial No. : 11/205,421
Inventor(s) : Kameyama et al.
Issued : October 28, 2008
Title : **SYSTEM AND METHOD FOR CIRCUIT NOISE ANALYSIS**
Docket No. : **SUZU155**

Re: Request for Reconsideration

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.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B 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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

ecw

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SUITE 408
AUSTIN TX 78705

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OFFICE OF PETITIONS

In re Application of	:	
Kameyama et al.	:	
Application No. 11/205,421	:	
Filed: August 17, 2005	:	DECISION ON PETITION
Patent No. 7,444,600	:	
Issued: October 28, 2008	:	
Attorney Docket No. SUZU1550	:	

This is a decision on the request under 37 CFR 3.81(b)[1], filed March 6, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner indicates that the correct assignees are Kabushiki Kaisha Toshiba and International Business Machines Corporation, and that the name of International Business Machines Corporation was not properly designated by the Applicant on the PTOL-85 form at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent.

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.

A certificate of correction (and fee) was submitted February 4, 2009. An authorization to charge the processing fee set forth in § 1.17(i) to a deposit account was also provided, as required by

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

3.81(b). Further, Office assignment records reflect that Kabushiki Kaisha Toshiba and International Business Machines Corporation are the assignees of record, which assignments were submitted for recordation as set forth in § 3.11 before issuance of the patent. 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.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Christopher Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/18/09

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/205,441 Patent No.: 7,478,023

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE 2123 **Art Unit**

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QUINE INTELLECTUAL PROPERTY LAW GROUP, PC
P.O. BOX 458
ALAMEDA CA 94501

In re Application of: Jeffrey R. Lewis :
:
Application No. 11/205,451 :
Filed: August 15, 2005 :
Attorney Docket No. 90-000101US :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed March 12, 2007, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Michael G. Lee at (571) 272-2398.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
Jack Eugene ARMANTROUT, et al	:	
Application No. 11/205,458	:	DECISION ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. TK4280USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 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 July 18, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed April 18, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 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 of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

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PFIZER INC
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Ken Lipson et al	:	
Application No. 11/205,474	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. PC23516C	:	

This is a decision on the petition, filed October 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of
Carl Pickering, et. al.
Application No. 11/205,486
Filed: August 17, 2005
Attorney Docket No. 81123340 (JAGP 0106 PUSA)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction/Election Requirement, mailed May 20, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a election, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3656 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 04/21/2010

Applicant	: Carl Pickering	: DECISION ON REQUEST FOR
Patent Number	: 7571662	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,486	: OF WYETH
Filed	: 08/17/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 05/18/2010

Applicant : Carl Pickering
Patent Number : 7571662
Issue Date : 08/11/2009
Application No : 11/205,486
Filed : 08/17/2005

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **862** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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 1.18(e), the 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 deterimation 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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JUL 01 2009

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of	:	
LIU, David R. et al.	:	
Application No. 11/205,493	:	DECISION ON PETITION
Filed: June 03, 2009	:	TO WITHDRAW
Attorney Docket No. **0342941-0136(Liu 2359 US)**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 03, 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 Brenda Jarrell on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David Liu at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID R. LIU**
3 WHITMAN CIRCLE
LEXINGTON MA 02420

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United States Patent and Trademark Office
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MORRISON AND FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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APR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Wen **HUAFENG**	:	
Application No. 11/205,496	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. 71784.04001.UTL	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006, October 19, 2006 and October 23, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Charles D. Holland of MORRISON & FOERESTER LLP has been revoked by the assignee of the patent application on March 9, 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: **PAUL, HASTINGS, JANOFSKY & WALKER LLP**
P.O. BOX 919092
SAN DIEGO CA 92191-9092

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PAUL HASTINGS JANOFSKY & WALKER, LLP
875 15TH STREET NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of

Huafeng **WEN**
Application No. 11/205,496
Filed: August 16, 2005
Attorney Docket No. **71784.04001.UTL**

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 21, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Martin R. Bader on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest Align Technology Inc. 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: **ALIGN TECHNOLOGY, INC.**
881 MARTIN AVENUE
SANTA CLARA, CA 95050

cc: **JOHN WAGNER**
WAGNER BLECHER, LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

UNITED STATES PATENT AND TRADEMARK OFFICE

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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of
Shashidhar Vummintala et al. :
Application No. 11/205,504 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket Number: BCEM.P012 :

This is a decision on the petition under 37 CFR 1.182 filed May 3, 2006, to correct the name of the fourth inventor due to error on the part of the applicant.

The petition is **GRANTED**.

Petitioner submits that the application and declaration as originally filed incorrectly identified the fourth inventor as Balaji Sundar but that his legal name which hasn't been changed is Balaji S. Rajan. Petitioner requests a correction of the file record and issuance of a corrected filing receipt. Petitioner submits a statement from the fourth inventor explaining how the error was occasioned and that the error was not with deceptive intent. Additionally, a supplemental oath or declaration properly identifying the fourth inventor and signed by all of the inventors was submitted on January 18, 2006.

In view of the instant request, the following inventor name data has been changed.

Inventor 4) Balaji S. Rajan

A corrected filing receipt is included with this decision and this matter is being referred to Technology Center 2634 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/205,504	08/16/2005	2634	740	BCEM.P012	5	27	3

CONFIRMATION NO. 3378
CORRECTED FILING RECEIPT
OC000000018816293
OC000000018816293

53186
COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

Date Mailed: 05/16/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Shashidhar Vummintala, Santa Clara, CA;
Arogyaswami Paulraj, Santa Clara, CA;
Erik D. Lindskog, Santa Clara, CA;
Balaji S. Rajan, Santa Clara, CA;
Djordje Tujkovic, Santa Clara, CA;

Power of Attorney: The patent practitioners associated with Customer Number **53186**.

Domestic Priority data as claimed by applicant

This application is a CIP of 11/175,430 07/05/2005
and claims benefit of 60/602,082 08/16/2004
and claims benefit of 60/606,358 08/31/2004

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 09/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/205,504

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for rate-2 transmission

Preliminary Class

375

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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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of
Shashidhar Vummintala et al. :
Application No. 11/205,505 :
Filed: August 16, 2005 :
Attorney Docket Number: BCEM.P011 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed May 3, 2006, to correct the name of the fourth inventor due to error on the part of the applicant.

The petition is **GRANTED**.

Petitioner submits that the application and declaration as originally filed incorrectly identified the fourth inventor as Balaji Sundar but that his legal name which hasn't been changed is Balaji S. Rajan. Petitioner requests a correction of the file record and issuance of a corrected filing receipt. Petitioner submits a statement from the fourth inventor explaining how the error was occasioned and that the error was not with deceptive intent. Additionally, a supplemental oath or declaration properly identifying the fourth inventor and signed by all of the inventors was submitted on January 18, 2006.

In view of the instant request, the following inventor name data has been changed.

Inventor 4) Balaji S. Rajan

A corrected filing receipt is included with this decision and this matter is being referred to Technology Center 2611 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/205,505	08/16/2005	2611	990	BCEM.P011	5	37	3

CONFIRMATION NO. 3358
CORRECTED FILING RECEIPT
OC000000018816321
OC000000018816321

53186
COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

Date Mailed: 05/16/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Shashidhar Vummintala, Santa Clara, CA;
Arogyaswami Paulraj, Santa Clara, CA;
Erik D. Lindskog, Santa Clara, CA;
Balaji S. Rajan, Santa Clara, CA;
Djordje Tujkovic, Santa Clara, CA;

Power of Attorney: The patent practitioners associated with Customer Number **53186**.

Domestic Priority data as claimed by applicant

This application is a CIP of 11/175,621 07/05/2005
and claims benefit of 60/602,082 08/16/2004
and claims benefit of 60/606,358 08/31/2004

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 09/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/205,505

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for maximum transmit diversity

Preliminary Class

375

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
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

MAILED

JUL 22 2010

OFFICE OF PETITIONS

In re Application of.	:	
Aytur et al.	:	
Application No. 11/205,506	:	NOTICE
Filed: August 16, 2005	:	
Attorney Docket No. 252326-1070	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: THADDEUS GABARA
TYREAN LLC
62 BURLINGTON ROAD
ATTN: PATENT PROSECUTION SERVICES
MURRAY HILL, NJ 07974

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MAY 25 2007

OFFICE OF PETITIONS

Jonathan Smith
920 East Haley Street
Santa Barbara, CA 93103-2543

In re Application of	:	
Jonathan Smith	:	
Application No.: 11/205,509	:	ON PETITION
Filed: August 16, 2005	:	
Attorney Docket No. JS-100-A	:	

This is in response to the petition under 37 CFR 1.137(b) filed April 23, 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 6, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $65.00 surcharge for the late filing of the same and payment of the examination and search fee. No further response was received within the allowable period and the application became abandoned on November 7, 2005. A Notice of Abandonment was mailed on November 16, 2006.

The declaration, filed April 23, 2007, is noted. The search and examination fees were received on April 23, 2007.

The "Change of Correspondence Address" filed April 23, 2007, is noted.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: George Henry Lockwood	: DECISION ON REQUEST FOR
Patent Number	: 7628910	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

THE LAW OFFICES OF
PHILIP A. STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

In re Application of	:	
Jim C. ZANDT	:	
Application No. 11/205,536	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. UTO8052005	:	FROM RECORD

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 5, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to The Law Offices of Philip A. Steiner, has been revoked by the assignee of the patent application on December 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GUNNISON, MCKAY
AND GODGSON, LLP
1900 GARDENT ROAD,
SUITE 220
MONTERCY, CA 93940

cc : JIMMY ZANDT
1769 SAN LUIS DRIVE
SAN LUIS OBISPO, CA 93401

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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Mailed: 3-12-07

wk

In re application of
Karl Wright
Serial No. 11/205,537
Filed: August 16, 2005
For: METHOD FOR REDUCING REACTIVE PROTENATIOUS COMPOUNDS IN RED GRAPE MUST

DECISION ON PETITION

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed January 31, 2007, 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 preliminary amendment filed on October 04, 2006 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.

11/205,537

The image of the document will be removed from the Official file.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Law Office Of Philip A. Steiner
846 Higuera Street
Suite 4
San Luis Obispo, CA 93401

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OFFICE OF PETITIONS

LAW OFFICE OF PHILIP A STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

In re Application of	:	
Karl Henry WRIGHT	:	
Application No. 11/205,537	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. UT08152005	:	FROM RECORD
	:	

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 5, 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 Philip A. Steiner on behalf of all attorneys/agents of record who are associated with customer No. 31105.

All attorneys/agents associated with the Customer Number 31105 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the inventor at the indicated below until otherwise properly notified by the applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KARL WRIGHT
674 SANDERCOCK
SAN LUIS OBISPO, CA 93401

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LAW OFFICE OF PHILIP A. STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

In re Application of	:	
Karl Henry WRIGHT	:	
Application No. 11/205,537	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. UT08152005	:	FROM RECORD
	:	

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 13, 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, Attorney of record hired by another law firm. New firm is limiting new clients to those compatible with the firm, 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 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: KARL WRIGHT
674 SANDERCOCK
SAN LUIS OBISPO, CA 93401

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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
11/205,537	08/16/2005	Karl Henry Wright	UT08152005

CONFIRMATION NO. 3344

POWER OF ATTORNEY NOTICE

OC000000027573133

31105
LAW OFFICE OF PHILIP A STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

Date Mailed: 01/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2007.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of	:	
REIS, Antonia L.	:	
Application No. 11/205,545	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. 90-042US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to THELEN REID BROWN RAYSMAN & STEINER LLP has been revoked by the assignee of the patent application on November 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PATENT LAW PROFESSIONALS**
P.O. BOX 612407
SAN JOSE CA 95161

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Frederick Y. Chen	:	
Application No. 11/205,578	:	DECISION GRANTING PETITION
Filed: 16 August, 2005	:	
Atty Dckt No. BWY-020.01	:	

This is a decision in reference to the petition under 37 CFR 1.10(c) filed on 4 October, 2005, requesting that the above-identified application be accorded a filing date of 16 August, 2005, rather than the currently-accorded filing date of 18 August, 2005.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail service on 16 August, 2005. In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 16 August, 2005, petitioners supplied, with the present petition, a copy of Express Mail Customer Label No. EV479561938US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file).

The Express Mail Customer Label shows a "date-in" of "8-16-05." Additionally, the Express Mail Label bears an official USPS postmark dated 16 August, 2005.

In view of the above, the petition is granted. No petition fee is required.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 16 August,

2005, not 18 August, 2005, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/205,578	08/16/2005	3735	500	BWY-020.01	14	20	2

CONFIRMATION NO. 4031

CORRECTED FILING RECEIPT

OC000000017853203

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Date Mailed: 01/17/2006

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)

Frederick Y. Chen, Chestnut Hill, MA;

Assignment For Published Patent Application

The Brigham and Women's Hospital, Inc., Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number **25181**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/205,578

Projected Publication Date: 02/22/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Cardiac restraint

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/21/07

Paper No.: ____

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction on Patent No.: 7234939

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Cris L Rodriguez
SPE

3732
Art Unit

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United States Patent and Trademark Office
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Jian Wang	: DECISION ON REQUEST FOR
Patent Number	: 7622182	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **537** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 04/20/2010

Applicant	: Charles R. Tolle	: DECISION ON REQUEST FOR
Patent Number	: 7597236	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **925** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 05/17/2010

Applicant : Charles R. Tolle
Patent Number : 7597236
Issue Date : 10/06/2009
Application No : 11/205,616
Filed : 08/16/2005

: 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 **995** 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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
David M. BUZAWA	:	
Application No. 11/205,629	:	DECISION ON PETITION
Filed: August 16, 2005	:	TO WITHDRAW
Attorney Docket No. 14076A-003010US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP, has been revoked by the assignee of the patent application on September 10, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address has been changed and the new correspondence address is the address indicated below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

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JAN 03 2008

OFFICE OF PETITIONS

In re Application of	:
Stephen Qualy, Carl Stegeman	: DECISION REFUSING STATUS
and Merritt Pulkrabek	: UNDER 37 C.F.R. § 1.47(a)
Application No. 11/205,658	:
Filed: August 17, 2005	:
Attorney Docket No. 100.682US01	:

This is a decision on the "PETITION UNDER 37 C.F.R. 1.47(a) TO FILE APPLICATION WITHOUT ALL INVENTORS' SIGNATURES" filed August 3, 2007.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 17, 2005, with an application data sheet identifying the inventors and with a declaration executed by inventors Qualy and Stegeman. In addition, the signature block for inventor Pulkrabek was executed by inventor Qualy.

By Office action mailed May 9, 2007, the examiner *inter alia* objected to the declaration. This Office action set a three-

month period for reply with extensions of time obtainable under § 1.136(a).

Preliminarily, it is noted that as neither a § 1.47 petition with a partially executed declaration nor a fully executed declaration were submitted on filing, the late surcharge under 37 CFR 1.16(f) is required. The $130 fee has been charged to Deposit Account No. 50-2432, as authorized.

Applicants assert that status under § 1.47(a) is proper because inventor Pulkrabek has failed to execute the application after repeated attempts to request him to do so.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Requirements (1),(3) and (4) have been satisfied. By declaration of paralegal Lisa Gentry, and supporting documentary evidence, petitioner has shown that inventor Pulkrabek has, by his conduct in not responding, refused to join in the application, after having been presented with the application papers. The showing is not adequate that the application papers were successfully presented to inventor Pulkrabek by email. Nonetheless, the petition includes a showing, including a copy of the cover letter, supporting a conclusion that all of the application papers were presented to inventor Pulkrabek by Fedex delivery. The required petition fee of $200 (not $130) has been charged to petitioner's Deposit Account, as authorized. The petition includes a statement of the last known address of the non-signing inventor.

However, the petition is not grantable because it does not satisfy requirement (2). The declaration submitted August 17, 2005 is not acceptable. No further declaration has been submitted. The August 17 declaration is executed by inventor Stegeman on behalf of himself and by inventor Qualy on behalf of himself and on behalf of non-signing inventor Pulkrabek. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, requires all available joint inventors to file an application "on behalf of"

themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application."

In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirement:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

On renewed petition, a proper declaration executed by all of the available joint inventors on behalf of themselves and on behalf of the non-signing inventor 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 FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

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MAY 06 2008

OFFICE OF PETITIONS

In re Application of	:
Stephen Qualy, Carl Stegeman	: DECISION ACCORDING STATUS
and Merritt Pulkrabek	: UNDER 37 C.F.R. § 1.47(a)
Application No. 11/205,658	:
Filed: August 17, 2005	:
Attorney Docket No. 100.682US01	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(A)" filed March 3, 2008.

The petition is **GRANTED**.

The above-identified application was filed on August 17, 2005, with an application data sheet identifying the inventors and with a declaration executed by inventors Qualy and Stegeman. In addition, the signature block for inventor Pulkrabek was executed by inventor Qualy. No petition under 37 CFR 1.47(a) accompanied this declaration.

By Office action mailed May 9, 2007, the examiner *inter alia* objected to the declaration. In response, applicants filed the initial petition. Applicants assert that status under § 1.47(a) is proper because inventor Pulkrabek has failed to execute the application after repeated attempts to request him to do so. By decision mailed January 3, 2008, the petition under 37 CFR 1.47(a) was dismissed for failure to submit an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. (The other requirements of 37 CFR 1.47(a) were satisfied).

On instant renewed petition, the deficiency was cured. Applicants filed a declarations executed in combination by joint

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

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MR. MERRITT PULKRABEK
631 DAVID AVENUE
HAMBURG, MN 55339-9441

COPY MAILED
MAY 06 2008
OFFICE OF PETITIONS

In re Application of	:	
Stephen Qualy, Carl Stegeman	:	
and Merritt Pulkrabek	:	LETTER
Application No. 11/205,658	:	
Filed: August 17, 2005	:	
Attorney Docket No. 100.682US01	:	

Dear Mr. Pulkrabek:

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.

inventors Stegeman and Qualy on behalf of themselves and on behalf of non-signing inventor Pulkrabek.

The declarations filed March 3, 2008, have been reviewed and found in compliance with § 1.47. Petitioner has now met all requirements of 37 CFR 1.47(a).

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

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

FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 04/20/2010

Applicant	: Stephen J. Qualy	: DECISION ON REQUEST FOR
Patent Number	: 7585211	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,658	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **413** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20100517

DATE : May 17, 2010

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction on Patent No.: 7,449,312

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:

/GARY BENZION/
Supervisory Patent Examiner.Art Unit 1637

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Mark Paul Hagemeister	: DECISION ON REQUEST FOR
Patent Number	: 7629303	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/205,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Frederick Hidle	: DECISION ON REQUEST FOR
Patent Number	: 7593323	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,693	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
11/205,702	08/16/2005	2812	1600	BOSC.P001	35	32	3

CONFIRMATION NO. 4397

UPDATED FILING RECEIPT

OC000000017277922

53186
COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

Date Mailed: 10/19/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gary Yama, Palo Alto, CA;

Assignment For Published Patent Application

Robert Bosch GmbH

Power of Attorney: The patent practitioners associated with Customer Number **53186**.

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 US11/205,702

Projected Publication Date: 02/22/2007

Non-Publication Request: No

Early Publication Request: No

Title

Microelectromechanical devices and fabrication methods

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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INSIGHT TECHNOLOGY, INC.
ATTN: PETER W. MURPHY
NINE AKIRA WAY
LONDONDERRY NH 03053

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:
Alan Howe	:
Application No. 11/205,708	: DECISION ON PETITION
Filed: August 17, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P0431	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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.

This pending nonprovisional application was filed on August 17, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/602,254, which was filed on August 17, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment 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).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1370 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 50-3139.

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 Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Nancy Johnson

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INSIGHT TECHNOLOGY, INC.
ATTN: PETER W. MURPHY
NINE AKIRA WAY
LONDONDERRY NH 03053

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan Howe	:	
Application No. 11/205,708	:	DECISION ON PETITION
Filed: August 17, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P0431	:	

This is a decision on the REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.78(a)(6), filed October 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

By decision mailed October 2, 2006, the initial petition under 1.78(a)(6) filed May 3, 2006 was dismissed. The amendment submitted was not acceptable because as drafted it improperly incorporated by reference the prior-filed application.

On request for reconsideration, 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.

This pending nonprovisional application was filed on August 17, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/602,254, which was filed on August 17, 2004, and for which priority is claimed.

On instant request for reconsideration, a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title. This amendment does not include an incorporation by reference statement.

All the above requirements now having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219 . All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2875 for appropriate action on the amendment submitted October 23, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) of the prior-filed provisional application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/205,708	08/17/2005	2875	1000	P0431	7	20	3

CONFIRMATION NO. 4502

CORRECTED FILING RECEIPT

OC000000021489289

43961
INSIGHT TECHNOLOGY, INC.
ATTN: PETER W. MURPHY
NINE AKIRA WAY
LONDONDERRY, NH 03053

Date Mailed: 12/06/2006

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 T. Howe, Merrimack, NH;

Power of Attorney:

Steven Grossman--35001
Kevin Carroll--36384
Donald Perreault--40126
Edmund Pfleger--41252
Peter Murphy--43822
Jeffrey Placker--47862
Scott Faber--48380

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/602,254 08/17/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/05/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/205,708

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Switch configuration for a tactical illuminator

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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116 JOHN ST.
SUITE 1201
NEW YORK NY 10038

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of	:	
LUSKY, Eli et al.	:	
Application No. 11/205,716	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. **ELG-P-9014-US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/21/2010

Applicant	: Jun-Hyung Kim	: DECISION ON REQUEST FOR
Patent Number	: 7653393	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/205,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **272** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT M. SPERRY, ESQ.
23390 OSTRONIC DRIVE
WOODLAND HILLS CA 91367

In re Application of	:	
Michael D. Cline	:	
Application No. 11/205,744	:	ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. CLILNE	:	

This is a decision on the petition filed June 19, 2006, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] 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) (3).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

ROBERT M. SPERRY, ESQ.
23390 OSTRONIC DRIVE
WOODLAND HILLS CA 91367

In re Application of	:	
Michael D. Cline	:	
Application No. 11/205,744	:	ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. CLILNE	:	

This is a decision on the renewed petition filed November 21, 2006, which is being treated under 37 CFR 1.137(b), to revive the above-identified application.

The petition is again **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)[1] must be accompanied by: (1) the required reply,[2] 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) (3).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Applicant failed to submit the required reply : a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. **A blank copy of Form PTO/SB/64 is enclosed for your convenience.**

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

ENCLOSED: BLANK COPY OF FORM PTO/SB/64

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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ROBERT M. SPERRY, ESQ.
23390 OSTRONIC DRIVE
WOODLAND HILLS CA 91367

COPY MAILED

MAY 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Cline et al	:	
Application No. 11/205,744	:	DECISION GRANTING PETITION
Filed: August 17, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CLILNE	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of September 6, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/07/10

TO SPE OF : ART UNIT 3775

SUBJECT : Request for Certificate of Correction for Appl. No.: 11205761 Patent No.: 7611520

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
[redacted]

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	All changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Thomas C Barrett/ 3775
SPE **Art Unit**

PAGE 2/3 * RCVD AT 4/7/2010 8:50:06 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAGE 3/3 * RCVD AT 4/7/2010 8:50:06 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE PA 15668

COPY MAILED

JUN 07 2007

OFFICE OF PETITIONS

In re Application of
Jurgen Huter et al.
Application No. 11/205,770
Filed: August 17, 2005
Attorney Docket No.: MB 498
Title: INTERNAL COMBUSTION
ENGINE HAVING A COOLANT CIRCUIT

DECISION ON TWO PETITIONS
UNDER 37 C.F.R. §§ 1.137
AND 181

This is a decision on the two petitions concurrently filed on March 12, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn, as well as 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 7, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 8, 2006. A notice of abandonment was mailed on February 27, 2007.

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1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition pursuant to 37 C.F.R. §1.181

Petitioner has asserted that on September 16, 2006, a response was timely filed, however the response was "identified on the cover sheet as relating to SN 11/403563."

The electronic file associated with application number 11/403,563 has been reviewed, and it is clear that a response was timely received. However, this response contains the incorrect serial number, inventor, filing date, title, and attorney docket number. Only the Examiner's name and Art Unit are correct. As such, the Office would have had no reason to match this submission with the present application.

It follows that the petition pursuant to Rule §1.181 must be **DISMISSED.**

The petition pursuant to 37 C.F.R. §1.137(b)

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the present petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With the present petition, Petitioner has submitted an amendment, as well as a statement that is being construed as the proper statement of unintentional delay. No terminal disclaimer is required. The petition fee has been charge to Petitioner's Deposit Account, as authorized in the petition.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

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

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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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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06 MAY 2008

NOVAK DRUCE + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of Alexander K. SURIKOV Application No.: 11/205,771 PCT No.: PCT/RU2003/000,413 Filing Date: 17 August 2005 Attorney Docket No.: 8054.005.PCUS00 For: DEVICE FOR WATER DECOMPOSITION BY ELECTROLYSIS	DECISION ON PETITION UNDER 37 CFR1.182

This is response to applicant's "PETITION TO ACCORD APPLICATION STATUS AS NSAITONAL STABE FILING UNDER 35 USC 371," filed on 23 April 2008, which is being treated as a petition under 1.182 to change the application type from a 35 USC 111(a) to 35 USC 35 USC 371 filing. The appropriate petition fee of $400.00 set forth in §1.17(f) has been charged to applicant's Deposit Account No.: 14-1437.

BACKGROUND

On 11 July 2007, applicants the aforementioned application as a utility application. The application was processed as filing under 35 U.S.C. §111(a) because it was submitted using "Utility Patent Application Transmittal," form under 35 USC 111(a).

On 23 April 2008, petitioner filed the instant petition to convert the above application filed under 35 USC §111(a) to a national stage application filed under 35 USC §371.

DISCUSSION

U.S. statutes and regulations do not make specific provision for the requested conversion and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, petitioner has failed to make such a showing. Petitioner is advised that because international application PCT/RU2003/000413 designated the United States, the present application may be treated as a continuation of international application PCT/RU2003/000413, with no loss of priority rights, if the requirements of 35 U.S.C. 120 are met. See MPEP 1895.

Moreover, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states in relevant part:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> . . .
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111. (Emphasis added.)

As such, any intended filing under 35 U.S.C. 371 a national stage application must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a). Note 37 CFR 1.494(f), 1.495(g) and MPEP 1893.03(a).

At time of filing this application, there were conflicting instruction because the transmittal letter requested to the filing to be treated under 35 U.S.C. 111(a), and the Application Data Sheet indicated on page 2, "Application Type" as a regular utility and it only mentioned "National Stage of IB application number PCT/RU2003/0004123," on page 3 under Domestic Priority Information.

Moreover, in the present petition applicants have not made a showing that any loss of grant rights would occur if the above-captioned application remains a filing under 35 U.S.C. 111(a). Accordingly, applicants have not established sufficient cause for conversion from a 35 U.S.C. 111(a) application to an application filed under 35 U.S.C. 371. As a result, the aforementioned application was properly processed by the Office under 35 U.S.C. 111(a).

Petitioner, however, is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, because this application (Serial No. 11/205,771) and the international application (PCT/RU2003/000413) designating the United States were copending on 17 August 2005. However, petitioner must comply with the provisions of 37 CFR 1.78 to correct the claim priority to the international application

In addition, petitioner is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED.**

If reconsideration on the merits of this petition is desired, a proper reply must be filed within **TWO (2) MONTHS** form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, 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.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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2 3 JUL 2008

NOVAK DRUCE + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of	:
Alexander K. SURIKOV	: DECISION ON
Application No.: 11/205,771	:
PCT No.: PCT/RU2003/000,413	:
Filing Date: 17 August 2005	: RENEWED PETITION
Attorney Docket No.: 8054.005.PCUS00	:
For: DEVICE FOR WATER DECOMPOSITION	: UNDER 37 CFR1.182
BY ELECTROLYSIS	:

This is response to applicant's "REQUEST FOR RECONSIDERATION/RENEWED PETITION TO RECOGNIZE CLAIM OF PRIORITY TO PRIOR-FILED PCT APPLICATION," filed on 12 June 2008, which is being treated as a renewed petition under 1.182 to change the application type from a 35 USC 111(a) to 35 USC 35 USC 371 filing.

BACKGROUND

In a decision from this Office on 06 May 2008, the petition filed on 23 April 2008 was dismissed because at the time of filing there were conflicting instructions as to the treatment of the filing, thus the application was properly treated as a utility application under 35 USC 111(a).

On 12 June 2008, petitioner filed the instant renewed petition to convert the above application filed under 35 USC §111(a) to a national stage application filed under 35 USC §371, and if the request to recognize the claim to priority of the PCT application under 35 USC 371 is refused then to request the claim of priority to the PCT application recognized under 35 USC §§ 120 and 365(c).

DISCUSSION

As stated in the decision mailed on 06 May 2008, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states in relevant part:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> . . .
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111. (Emphasis added.)

As such, any intended filing under 35 U.S.C. 371 a national stage application must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a). Note 37 CFR 1.494(f), 1.495(g) and MPEP 1893.03(a).

Also, as stated earlier, at time of filing this application, there were conflicting instruction because the "Utility Patent Application Transmittal[1]" (Form PTO/SB/05) letter requested the filing to be treated under 35 U.S.C. 111(a), and the Application Data Sheet indicated on page 2, "Application Type" as a regular utility and it only mentioned "National Stage of IB application number PCT/RU2003/0004123," on page 3 under Domestic Priority Information. As a result, the application was properly treated under 35 U.S.C. 111(a).

Petitioner's claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter is improper because petitioner has not complied with the provisions of 37 CFR 1.78 to correct the claim priority to the international application

Because the correction has been submitted on 09 May 2008 after the expiration of the time period required by 37 CFR 1.78(a)(2), the correction will have to be submitted as a petition under 37 CFR 1.178(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior filed application accompanied with the petition fee set forth under §1.17(t).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is **DISMISSED.**

If reconsideration on the merits of this petition is desired, a proper reply must be filed within **TWO (2) MONTHS** form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182."

---

[1] Contrary to petitioner's allegation on page 2 that the transmittal form did not request treatment under 35 U.S.C. 111(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, 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.

Rafael Bacares
Legal Examiner
PCT Legal Office
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Facsimile: (571) 273-0459

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NOVAK DRUCE + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of	: DECISION ON SECOND
Alexander K. SURIKOV	:
Application No.: 11/205,771	: RENEWED PETITION
Filing Date: 17 August 2005	:
Attorney Docket No.: 8054.005.PCUS00	: UNDER 37 CFR 1.182
For: DEVICE FOR WATER DECOMPOSITION	:
BY ELECTROLYSIS	: AND 37 CFR 1.78(a)(3)

This is response to applicant's "REQUEST FOR RECONSIDERATION OF DECISION ON RENEWED PETITION TO RECOGNIZE CLAIM OF PRIORITY TO PRIOR-FILED PCT APPLICATION... 37 CFR 1.78(a)(3)," filed on 11 September 2008.

BACKGROUND

In a decision from this Office on 23 July 2008, the renewed petition filed on 12 June 2008 was dismissed because at the time of filing there were conflicting instructions as to the treatment of the filing, thus the application was properly treated as a utility application under 35 USC 111(a).

On 11 September 2008, petitioner filed the instant second renewed petition to treat the above application as a national stage application filed under 35 USC §371, and as an alternative as a petition under 37 CFR 1.78(a)(3).

DISCUSSION

Initially, it is noted that petitioner has requested that OPLA decide the instant petition. Petitioner's request is refused. Pursuant to MPEP §1002.02 (p), the authority to decide the instant petition has been delegated to the Office of PCT Legal Administration.

Petition under 37 CFR 1.182

As stated in the decisions mailed on 06 May 2008 and 23 July 2008, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states in relevant part:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111. . . . <u>If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111</u>. (Emphasis added.)

Therefore, any intended filing under 35 U.S.C. 371 a national stage application must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a).. Note 37 CFR 1.494(f), 1.495(g) and MPEP 1893.03(a).

As stated earlier, at the time of filing this application, there were conflicting instruction because the "Utility Patent Application Transmittal" (Form PTO/SB/05) letter requested the filing to be treated under 35 U.S.C. 111(a). Petitioner is incorrect to indicate that filing of a "Utility Patent Application Transmittal (PTO/SB/05) letter" does not instruct the office that the filing should be treated as a "111(a)" filing. The "Utility Patent Application Transmittal," clearly states below the title that the filing of this transmittal letter is "only for new nonprovisional application under 37 CFR 1.53(b)." See MPEP §1893, "a conflicting instruction will be present, for example, where applicant includes in the initial submission under 35 USC 371 a 'Utility Patent Application Transmittal (Form PTO/SB/05)'."

As a result, the USPTO was correct in treating the filing of this application as 35 USC 111(a).

<u>Alternate Petition Under 37 CFR § 1.78(a)(3)</u>

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 paragraph (a)(2) of this section 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)(2)(ii) of this section and 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 nonprovisional application was filed on 17 August 2005 and the claim for benefit herein has been submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii)[1]. *See* 35 U.S.C. §§120 and 365(c).

Regarding requirement (1) a reference to the prior-filed international application has been included in the ADS filed on 09 May 2008, as required by 37 CFR 1.78(a)(2).

Regarding requirement (2), the surcharge fee of $1,410.00 has been charged to the Deposit Account No.: 14-1437 as indicated in the petition.

Regarding requirement (3), the proper statement has been provided.

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 and 365(c) to the prior-filed international applications 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 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 application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications accompanies this decision on petition.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is **DISMISSED.**

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**

[1] Contrary to petitioner's assertion, the ADS filed on 17 August 2005 did not include the reference required under 35 USC 120 and 37 CFR 1.78(a)(2)(i), as it failed to properly identified the relationship of the instant application to the PCT application.

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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O'KEEFE, EGAN, PETERMAN & ENDERS LLP
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
#C200
AUSTIN, TX 78746

Mail Date: 04/21/2010

Applicant	: Kevin Pauza	: DECISION ON REQUEST FOR
Patent Number	: 7597687	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **693** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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NOV 03 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael V. Chobotov et al.	:	
Application No. 11/205,793	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. 021630-000523US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and agents associated with Customer Number 20350 have been revoked by the assignee of the patent application on March 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

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

UNITED STATES DEPARTMENT OF COMMERCE
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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Yonghong Song	: DECISION ON REQUEST FOR
Patent Number	: 7620945	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,822	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1128** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 G. Call
20 EAST GOETHE STREET
CH1
CHICAGO IL 60610-2368

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AUG 22 2008

In re Application of	:	
O'Modhrain et al.	:	
Application No.: 11/205824	:	ON PETITION
Filing or 371(c) Date: 08/17/2005	:	
Attorney Dckt Number: F-28	:	

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2008. Accordingly, the date of abandonment of this application is May 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the 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

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MICHAEL C CESARANO
FELDMAN GALE PA
201 S BISCAYNE BOULEVARD SUITE 1920
MIAMI FL 33131

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MAR 12 2008
OFFICE OF PETITIONS

In re Application of	:	
Neal Palmer Brooks	:	
Application No. 11/205,834	:	ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. 167105	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 4, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned due to failure to pay the issue and publication fees as required by the Notice of Allowance mailed September 7, 2007. No issue and publication fees having been received, the application became abandoned on December 8, 2007. The Office mailed a Notice of Abandonment on January 29, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a proper docket report, showing all of his replies docketed for the due date of December 7, 2007. An entry for the instant application is absent, supporting the conclusion that the Notice of Allowance was not received.

The matter is being forwarded to Group Art Unit 1661 for re-mailing of the September 7, 2007 Notice of Allowance, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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SEP 18 2005

DONALD E. JOHNSON
404 SAGECREST DRIVE
SAN ANTONIO, TX 78232

In re application of Donald Eugene Johnson Application No. 11/205,838 Filed: August 17, 2005 For: PULL-TAB FOR USE AS HANDLE ON NOTEBOOKS, BINDERS, BOXES OR DRAWERS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 17, 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 statement signed by Donald Eugene Johnson indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 10/7/05

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E. RANDALL SMITH
2777 ALLEN PARKWAY, SUITE 800
HOUSTON, TX 77019

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AUG 17 2006
OFFICE OF PETITIONS

In re Application of	:	
David M. Holbrook	:	
Application No. 11/205,856	:	ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. 2270.06	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed September 2, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 3, 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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In re Application of	:	
David M. Holbrook	:	
Application No. 11/205,856	:	DECISION DISMISSING PETITIONS
Filed: August 17, 2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2270.06	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 17, 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.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

A review of the amendment indicates that U.S. Application Serial No. 10/002,793, filed November 15, 2001, and U.S. Provisional Patent Application Serial No. 60/248,802, filed November 15, 2000 has been improperly incorporated by reference.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications 10/002,793 and 60/248,802 . An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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AUG 29 2008

In re Application of	:
David M. Holbrook	:
Application No. 11/205,856	: DECISION ON PETITIONS
Filed: August 17, 2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2270.06	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-0602. 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 2163 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.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/205,856	08/17/2005	2163	625	2270.06	11	3

CONFIRMATION NO. 5204

CORRECTED FILING RECEIPT

32603
E. RANDALL SMITH
2777 ALLEN PARKWAY
SUITE 800
HOUSTON, TX 77019

OC000000031529864

Date Mailed: 08/22/2008

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)

David M. Holbrook, Holston, TX;

Power of Attorney: The patent practitioners associated with Customer Number 32603

Domestic Priority data as claimed by applicant

This application is a CIP of 11/129,938 05/16/2005 PAT 7,054,870
which is a CON of 10/002,793 11/15/2001 PAT 6,961,731
which claims benefit of 60/248,802 11/15/2000
This application 11/205,856
claims benefit of 60/602,077 08/17/2004

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 **US 11/205,856**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Apparatus and methods for organizing and/or presenting data

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 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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HAHN LOESER / LINCOLN
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

MAILED
MAY 12 2010
OFFICE OF PETITIONS

In re Patent No. 7,624,908	:	DECISION ON REQUEST FOR
ENYEDY et al.	:	RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 11/205,864	:	NOTICE OF INTENT TO ISSUE
Filed: August 17, 2005	:	CERTIFICATE OF CORRECTION
Atty Docket No. 201990.02247	:	

This is a decision on the petition filed on December 1, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred seventy-three (773) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **seven hundred seventy-one (771) days**.

Patentee acknowledges 324 days of A delay, 350 days of C delay, 24 days of applicant delay, and 0 days of overlap. Patentee further acknowledges that the 350 days consumed by appellate review is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). However, patentee's calculation of the number of days of B delay is incorrect.

The Office has determined that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is 471 days (not 473 as calculated by patentee), beginning on August 18, 2008, the day after the date that is three years after the actual filing date of the application and ending on December 1, 2009, the date the patent issued. 35 U.S.C. 154(b)(1)(B). However, the period of adjustment of the term of the patent does not include the 350 days consumed by appellate review under 35 U.S.C. 134, 141, 145, (35 U.S.C. 154(b)(1)(B)(ii)). Therefore, B delay is 121 (471 - 350) days (not 123 days as indicated by patentee).

Accordingly, the patent term adjustment is 771 days (324 days of A delay + 121 days of B delay + 350 days of C delay - 0 days of overlap - 24 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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 **seven hundred seventy-one (771) 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: 7,624,908 B2

DATED: Dec. 1, 2009 **DRAFT**

INVENTOR(S): ENYEDY 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 650 days

Delete the phrase "by 650 days" and insert – by 771 days--

Day : Monday
Date: 5/10/2010

PALM INTRANET

Time: 11:33:20

PTA Calculations for Application: 11/205864			
Application Filing Date:	**08/17/2005**	PTO Delay (PTO):	**674**
Issue Date of Patent:	**12/01/2009**	Three Years:	**0**
Pre-Issue Petitions:	**0**	Applicant Delay (APPL):	**24**
Post-Issue Petitions:	**0**	Total PTA (days):	**771**
PTO Delay Adjustment:	**121**		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	05/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	121		
74.5	11/11/2009	PTA 36 MONTHS			
74	12/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	10/27/2009	EXPORT TO FINAL DATA CAPTURE			
72	10/26/2009	DISPATCH TO FDC			
71	10/23/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
70	10/21/2009	ISSUE FEE PAYMENT VERIFIED			
69	10/21/2009	ISSUE FEE PAYMENT RECEIVED			
68	09/11/2009	FINISHED INITIAL DATA CAPTURE			
64	08/17/2009	MAIL NOTICE OF ALLOWANCE			
63	08/12/2009	ISSUE REVISION COMPLETED			
62	08/12/2009	DOCUMENT VERIFICATION			
61	08/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	08/07/2009	NOTICE OF ALLOWABILITY			
58	07/30/2009	ELECTRONIC REVIEW			
57	07/30/2009	EMAIL NOTIFICATION			
56	07/30/2009	MAIL BPAI DECISION ON APPEAL - REVERSED	350		39
55	07/28/2009	BPAI DECISION - EXAMINER REVERSED			
54	03/30/2009	EMAIL NOTIFICATION			
53	03/30/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
52	11/29/2008	DOCKETING NOTICE MAILED TO APPELLANT			
51	11/29/2008	ASSIGNMENT OF APPEAL NUMBER			
50	11/03/2008	MAIL REPLY BRIEF NOTED BY EXAMINER			

49	11/03/2008	APPEAL AWAITING BPAI DOCKETING			
48	10/31/2008	REPLY BRIEF NOTED BY EXAMINER			
47	10/30/2008	DATE FORWARDED TO EXAMINER			
46	10/21/2008	REPLY BRIEF FILED			
45	10/17/2008	EXAM. ANS. REVIEW COMPLETE			
44	10/06/2008	MAIL EXAMINER'S ANSWER			
43	10/01/2008	EXAMINER'S ANSWER TO APPEAL BRIEF			
42	08/22/2008	APPEAL BRIEF REVIEW COMPLETE			
41	08/22/2008	DATE FORWARDED TO EXAMINER			
40	08/15/2008	APPEAL BRIEF FILED			
39	08/15/2008	NOTICE OF APPEAL FILED		24	37
38	08/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	04/22/2008	MAIL NON-FINAL REJECTION			
36	04/21/2008	NON-FINAL REJECTION			
35	03/31/2008	APPEAL BRIEF REVIEW COMPLETE			
34	03/31/2008	DATE FORWARDED TO EXAMINER			
33	03/28/2008	APPEAL BRIEF FILED			
32	03/06/2008	MAIL ADVISORY ACTION (PTOL - 303)			
31	02/28/2008	ADVISORY ACTION (PTOL-303)			
30	02/08/2008	NOTICE OF APPEAL FILED			
29	02/15/2008	DATE FORWARDED TO EXAMINER			
28	02/07/2008	AMENDMENT AFTER FINAL REJECTION			
27	02/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	12/12/2007	MAIL FINAL REJECTION (PTOL - 326)			
25	12/10/2007	FINAL REJECTION			
22	10/16/2007	DATE FORWARDED TO EXAMINER			
21	10/11/2007	RESPONSE AFTER NON-FINAL ACTION			
20	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	09/06/2007	MAIL NON-FINAL REJECTION	324		-1
16	09/04/2007	NON-FINAL REJECTION			
15	08/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	06/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	06/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
12	06/13/2007	CASE DOCKETED TO EXAMINER IN GAU			

11	02/22/2007	PG-PUB ISSUE NOTIFICATION			
10	09/13/2006	CORRESPONDENCE ADDRESS CHANGE			
9	01/25/2006	CORRESPONDENCE ADDRESS CHANGE			
8.7	08/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	11/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
5	09/01/2005	APPLICATION DISPATCHED FROM OIPE			
4	09/02/2005	APPLICATION IS NOW COMPLETE			
3	08/29/2005	CLEARED BY OIPE CSR			
2	08/26/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/17/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Joshua A. Griswold
Fish & Richardson, P.C.
Suite 5000
1717 Main Street
Dallas, TX 75201

Mail Date: 04/21/2010

Applicant	: Mark Kalman	: DECISION ON REQUEST FOR
Patent Number	: 7640987	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,871	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Trask Britt
P.O. Box 2550
Salt Lake City, UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
Mauro Luiz Lopes Euphemio et al.	:	
Application No. 11/205,872	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. Q102361	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Trask Britt has been revoked by the assignee of the patent application on August 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sughrue Mion, PLLC**
2100 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20037

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Paper No.

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8 CEDAR BROOK DRIVE
CN 7500
Cranbury NJ 08512

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OFFICE OF PETITIONS

In re Application of	:	
Seren Frantz et al.	:	
Application No. 11/205,877	:	DECISION ON PETITION
Filed: August 17, 2005	:	PURSUANT TO
Attorney Docket No. RD 04020	:	37 C.F.R. § 1.78(A)(6)
Title: LOW PH STRUCTURED	:	
SURFACTANT COMPOSITIONS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(6), filed July 11, 2008, 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 to the specification.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 C.F.R. § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office

notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the petition fee is unnecessary and has not been charged to Petitioner's Deposit Account.

The application is being forwarded to Technology Center AU 1796 for appropriate action on the amendment filed July 11, 2008, including 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.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[2]. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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1 *Note* MPEP § 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
SUBRAMANIAN, Vivek et al.	:	
Application No. 11/205,881	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. **1131-009-1A**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 06, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BEYER WEAVER LLP has been revoked by the assignee of the patent application on February 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WITHROW & TERRANOVA, P.L.L.C.**
100 REGENCY FOREST DRIVE
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CARY, NC 27518

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THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

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OFFICE OF PETITIONS

In re Application of	:	
Gregg D. Scheller et al.	:	
Application No. 11/205,936	:	DECISION DISMISSING PETITION
Filed: August 17, 2005	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 54084-56672	:	

This is a decision on the petition under 37 CFR 1.313(a), filed February 5, 2008, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on December 20, 2007, with the issue fee being due on or before March 20, 2008. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

The $400 petition fee will be credited to your deposit account.

Inquiries concerning this decision may be directed to Terri Williams at (571) 272-2991.

The matter is being referred to Technology Center AU 3735 for appropriate processing of the RCE filed February 5, 2008, and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 02/06/08

2 Serial/Patent # 11/205,936

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition			$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 400.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 2 0 -- 0 8 2 3

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No petition was needed.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

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APPROVED: DATE: 2/8/08

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FORM PTO 1577
(01/90)

Docket No. 54084-56672

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being electronically filed with the U.S. Patent and Trademark Office via the EFS Web System located on the U.S. Patent and Trademark Office website on February 5, 2008.

Joseph M. Rolnicki
Joseph M. Rolnicki
Reg. No. 32,653

In re application of: Scheller, et al.	:	
Serial No.: 11/205,936	:	Examiner: Farah, Ahmed M.
Filed: August 17, 2005	:	Group Art Unit: 3735
For: DIRECTIONAL LASER PROBE	:	

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. § 1.313

Applicant hereby petitions that the above-referenced patent application be withdrawn from issue for the consideration of prior art. Accompanying this Petition is a Request for Continued Examination of the application, and an Information Disclosure Statement listing the prior art to be considered.

Respectfully submitted,
Thompson Coburn LLP

Adjustment date: 02/08/2008 AKELLEY
02/06/2008 INTEFSW 00001118 200823 11205936
01 FC:1462 400.00 CR

By: Joseph M. Rolnicki
Joseph M. Rolnicki
Reg. No. 32,653
One US Bank Plaza One US Bank Plaza
St. Louis, MO 63101-1693
(314) 552-6286

4669648.1

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11205936

Total Records Found: 9

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/06/2008	00001797	4	1462	$400.00	02/05/2008	DA 200823
02/06/2008	00001798	4	1801	$810.00	02/05/2008	DA 200823
03/20/2007	00000039	1	8007	$40.00	03/20/2007	CC
03/20/2007	00000040	1	8023	$840.00	03/20/2007	CC
03/20/2007	00000041	1	8013	$125.00	03/20/2007	CC
08/22/2005	00000021	1	8021	$40.00	08/17/2005	DA 200823
08/19/2005	00000084	1	1011	$300.00	08/17/2005	DA 200823
08/19/2005	00000085	1	1111	$500.00	08/17/2005	DA 200823
08/19/2005	00000086	1	1311	$200.00	08/17/2005	DA 200823

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/205,945	08/17/2005	Fumihiko Suzuki	09792909-6302	4383

7590 12/13/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER
MAPLES, JOHN S

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/13/2007	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: 12/13/2007 KKING1
08/19/2005 YPOLITE1 00000030 11205945
02 FC:1111 -500.00 OP

Refund Ref:
12/13/2007 0030048176

Credit Card Refund Total: $500.00

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Paper No.

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINS ROAD
CRANBURY NJ 08512

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In re Application of	:
Seren Frantz, Bharathy Sridhar	: DECISION ACCORDING STATUS
Stewart Warburton and	: UNDER 37 C.F.R. § 1.47(a)
Phillip Cotrell	:
Application No. 11/205,953	:
Filed: August 17, 2005	:
Attorney Docket No. RD 05009	:

This is a decision on the PETITION UNDER 37 C.F.R. 1.47(a) filed March 6, 2006.

The petition is **GRANTED**.

The above-identified application was filed on August 17, 2005, with an unexecuted declaration. By Notice to File Missing Parts of Nonprovisional Application mailed September 6, 2005, applicants were required to submit an executed declaration and the surcharge for its late filing. The Notice set a two (2) month time limit for response, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition (and petition fee), and the required late surcharge. The petition was made timely by an accompanying petition (and fee) for extension of time within the fourth month. Accompanying the petition was a declaration executed by joint inventors Frantz, Sridhar and Alexander on behalf of themselves and on behalf of non-signing joint inventor Cotrell. Applicants assert that status under 1.47(a) is proper because joint inventor Cotrell to the extent that he could be reached has refused to join in the application. On petition, patent attorney Kevin McVeigh has shown that a copy

of the application papers (specification, including claims, drawings, and oath or declaration) were delivered to the last known address of the inventor. The petition includes a return receipt for certified mail signed by Patricia Cotrell. Further, attorney McVeigh details making an oral request for the inventor to sign the declaration. However, inventor Cotrell has failed to respond to the request to sign the papers.

The declaration filed March 6, 2006, has been reviewed and found in compliance with § 1.63. The petition includes payment of the petition fee and the last known address of inventor Cotrell.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

The petition fee required pursuant to 1.17(g) of $200 (not $400) has been charged to Deposit Account No. 18-1169, as authorized.

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. PHILLIP COTRELL
22 HAMPSHIRE COURT
NEW EGYPT, NJ 08550

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In re Application of	:	
Seren Frantz, Bharathy Sridhar	:	
Stewart Warburton and	:	
Phillip Cotrell	:	LETTER
Application No. 11/205,953	:	
Filed: August 17, 2005	:	
Attorney Docket No. RD 05009	:	

Dear Mr. Cotrell:

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

KEVIN E. MC VEIGH
RHODIA INC.
259 PROSPECT PLAINS ROAD
CRANBURY NJ 08512

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Paper No.

RHODIA INC.
8 CEDAR BROOK DRIVE
CN 7500
CRANBURY NJ 08512

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Seren Frantz et al.	:	
Application No. 11/205,953	:	DECISION ON PETITION
Filed: August 17, 2005	:	PURSUANT TO
Attorney Docket No. RD 05009	:	37 C.F.R. § 1.78(A)(6)
Title: STRUCTURED SURFACTANT	:	
COMPOSITIONS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(6), filed July 21, 2008, 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 to the specification.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 C.F.R. § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the

application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the petition fee is unnecessary and has not been charged to Petitioner's Deposit Account.

The application is being forwarded to Technology Center AU 1796 for appropriate action on the amendment filed July 21, 2008, including 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.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[2]. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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1 *Note* MPEP § 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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STEVEN J. ROSEN
PATENT ATTORNEY
4729 CORNELL RD.
CINCINNATI, OH 45241

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Seethia Ramaiah MANNAVA, et al :
Application No. 11/205,959 : ON PETITION
Filed: August 17, 2005 :
Attorney Docket No. 12522-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two (2) month extension of under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Steven J. Rosen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3745 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

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NEXSEN PRUET ADAMS KLEEMEIER, LLC
PO DRAWER 2426
COLUMBIA SC 29202-2426

In re Application of	:	
Jonathan E. Meincke	:	DECISION ON PETITION
Application No. 11/205,974	:	
Filed: 17 August, 2005	:	
Attorney Docket Number: 24859-4	:	

This is a decision on the petition, filed on 8 December, 2006, under 37 CFR 1.137(b).

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(f)." This is not a final agency decision.

Although the petition does not identify the required reply, the petition was filed concurrently with a Request to Rescind a Nonpublication Request. As such, the petition will be treated as a petition under 37 CFR 1.137(f). Petitioner **must** inform the Office if this is an incorrect interpretation.

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 petition lacks item (1). The petition fails to provide proper notice of foreign or international filing pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) in that the filing

date of the subsequently-filed foreign or international application must be provided. Petitioner must provide the date that the foreign or multinational application was filed with any renewed petition.

If a petition under 37 CFR 1.137(f) is intended, petitioner should use the enclosed form when filing a renewed petition. No further petition fee is due.

Receipt of the Rescission of Previous Nonpublication Request is acknowledged. A communication notifying petitioner of acceptance thereof was mailed on 14 December, 2006.

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

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64a

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COLUMBIA SC 29202-2426

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan E. Meincke	:	DECISION ON PETITION
Application No. 11/205974	:	
Filed: 08/17/2005	:	
Atty Docket No. 24859-4	:	

This is a decision on the renewed petition, filed on 9 April, 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 17 August, 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.

It is noted that petitioner filed a Rescission of Previous Nonpublication Request on 8 December, 2006. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 22 March, 2007, was mailed on 13 December, 2006.

The application is being referred to Technology Center Art Unit 3751 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Nakashima et al.	:	
Application No. 11/205,980	:	ON PETITION
Filed: 18 August, 2005	:	
Atty Docket No. 0171-1230PUS1	:	

This is a decision on the paper filed on 4 November, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including a complete specification with at least one claim, be accorded a filing date of 18 August, 2005.

The petition is **GRANTED**.

The application was filed on 18 August, 2005. Accordingly, on 17 October, 2005, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the specification was missing and because the specification did not include at least one claim. The Notice also stated that the oath or declaration was missing.

In response, on 4 November, 2005, the present petition and a copy of 53 pages of specification, including seven (7) claims and one (1) page of abstract, was filed. Additionally, an executed declaration was filed.

Petitioners argue that the 53 pages of specification, including the claims and abstract, were filed with the other application papers on 18 August, 2005, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp dated "081805" and containing the above-identified application number. The postcard receipt identifies the application by the

first-named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 53 pages of specification. Petitioners request that the application, including the 53 pages of specification and abstract, be accorded a filing date of 18 August, 2005.

A review of the record reveals that no pages of specification, including the claims and an abstract, received on 18 August, 2005, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 18 August, 2005, included 53 pages of specification, including three (3) pages containing claims and one (1) page of abstract, which were subsequently misplaced in the Office. Therefore, the application, including 53 pages of specification, including three (3) pages containing seven (7) claims and one (1) page of abstract, is entitled to a filing date of 18 August, 2005.

In view of the above, the petition is granted. The Notice of Incomplete Nonprovisional Application is withdrawn. As the petition was necessitated by an error on the part of the Office, no petition fee is due.

The petition fee of $400.00 will be refunded to counsel's deposit account, No. 02-2448, as authorized in the petition.

The application will be processed with the copy of the 53 pages of specification, including three (3) pages containing (7) claims and one (1) page of abstract, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 18 August, 2005, using the application papers filed on that date, and the copy of 53 pages of specification, including three (3) pages containing (7) claims and one (1) page of abstract filed with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Oh Nam Kwon	: DECISION ON REQUEST FOR
Patent Number	: 7612861	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,983	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **921** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THOMPSON HINE
P.O. BOX 8801
DAYTON OH 45401-8801

In re Application of	:	
Jeffrey L. Wiles et al	:	
Application No. 11/205,985	:	ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. 025160-174	:	

This is a decision on the petition, filed February 22, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2863 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Koji Nozaki et al :
Application No. 11/205,992 :
Filed: August 18, 2005 :
Attorney Docket No. 052879

ON PETITION

This is a decision on the petition, filed August 1, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 15, 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 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Patent No. 7,573,470 :
Hong :
Issue Date: August 11, 2009 :
Application No. 11/205,994 : DECISION ON REQUEST FOR
Filed: August 17, 2005 : RECONSIDERATION OF
Attorney Dkt. No. 10125-5190 : PATENT TERM ADJUSTMENT
Title: METHOD AND APPARATUS FOR :
DRIVING LIQUID CRYSTAL DISPLAY :
DEVICE FOR REDUCING THE HEATING :
VALUE OF A DATA INTEGRATED :
CIRCUIT :

This is in response to the " Request For Reconsideration Of Patent Term Adjustment", filed October 1, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 715 days to 1027 days.[1]

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 11, 2009, the above-identified application matured into US Patent No. 7,573,470 with a patent term adjustment of 715 days. This request for reconsideration of patent term adjustment (including the authorization to charge the fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the Office's failure to issue the patent within 3 years of the filing date. Thus, patentees request that the determination of patent term adjustment be increased to a total of one thousand twenty-seven (1027) days (the sum of the period of three-year delay (312 days) and the period of examination

[1] It is noted that there is a discrepancy in the petition. On page two patentee request a total of 1027 days of patent term adjustment and on page four patentee request 631 days. Based on the figures provided, the Office will use the greater number of 1027 days.

delay (717 days) less applicant's delay (2 days)). Patentee does not dispute the 2-day reduction for applicant delay.

The Office finds that as of the issuance of the patent on August 11, 2009, the application was pending three years and 312 days after its filing date (August 17, 2008 to August 11, 2009). A period of adjustment of 717 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1). At issue is whether patentee should accrue an additional 312 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 717 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 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 17, 2005 until issuance on August 11, 2009. This 312 days of pendency over three years is the relevant period for considering overlap. 717 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 312 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 717 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 717 days and then another 312 days. The greater period, 717 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 715 (717-2) days.

The Office acknowledges submission of authorization to charge deposit account no. 23-1925 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(d). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

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BRINKS HOFER GILSON & LIONE
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CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Jin Cheol Hong	: DECISION ON REQUEST FOR
Patent Number	: 7573470	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/205,994	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1027** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

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OFFICE OF PETITIONS

In re Application of	:	
Walsh, et al.	:	
Application No. 11/206,004	:	DECISION ON PETITION
Filed: August 17, 2005	:	
Attorney Docket No. 10103Q	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 23, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 23, 2008. Accordingly, the date of abandonment of this application is December 24, 2008. A Notice of Abandonment was mailed on January 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) authorization to charge the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Pursuant to petitioners' authorization, deposit account no. 16-2480 will be charged a $1,620.00 petition fee.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MARK M FRIEDMAN
C/O DISCOVEY DISPATCH 9003 FLIRIN WAY
UPPER MARLBORO MD 20772

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OFFICE OF PETITIONS

In re Application of	:	
Avraham, et al.	:	
Application No. 11/206,033	:	ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. 246/365	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 29, 2007.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above application became abandoned for failure to file a reply to the Notice of Non-Compliant Amendment mailed February 16, 2007. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on March 17, 2007. The Office mailed a Notice of Abandonment on September 21, 2007.

Petitioner Mark Friedman states that he did not receive the Notice. Petitioner explains that the Upper Marlboro address of record is that of his representative, Bill Polkinghorn. According to petitioner, Polkinghorn forwards all PTO correspondence received to Mark Friedman in Tel Aviv. Petitioner asserts that he never received the February 16, 2007 Notice, and in support thereof has included a copy of his docket records from February 22, 2007 to March 22, 2007.

In order to establish non-receipt of the Notice, petitioner would need to establish that Notice was not received at the correspondence address of record. There is nothing in the record to contradict that the Notice was received at the correspondence address, but was inadvertently not forwarded to petitioner in Tel Aviv.

Petitioner may wish to consider reviving the application under 37 CFR 1.137(a) or 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee 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 this paragraph 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).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH , 9003 FLIRIN WAY
UPPER MARLBORO MD 20772

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OFFICE OF PETITIONS

In re Application of
Meir Avraham, et al. :
Application No. 11/206,033 : ON PETITION
Filed: August 18, 2005 :
Attorney Docket No. 246/365 :

This is a decision in response to the petition, filed April 14, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed, February 16, 2007. A Notice of Abandonment was mailed on September 21, 2007. On October 29, 2007 a petition to withdraw the abandonment under 37 CFR 181 was filed; however, the petition was dismissed in a decision mailed December 26, 2007. On April 14, 2008, the present petition under 37 CFR 1.137(b) was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2824 for further processing in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

In re Patent No. 7,625,599	:	
Issue Date: December 1, 2009	:	
Application No. 11/206,048	:	DECISION ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. MR1115-677	:	

This is a decision on the Request For Certificate Of Correction, filed March 17, 2010, to correct assignee's name on PTOL-85B. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition for a waiver of 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee submitted on the PTOL-85B identified thereon from:

"Dehuan Huang"

to:

-- Shanghai Applied Nanotechnologies Co., Ltd. --

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.

Notwithstanding, the USPTO recording on August 25, 2005 of the replacement copy of the assignment filed August 21, 2008, the evidence submitted by petitioner is in particular the receipt of Exhibit A, provides sufficient evidence that established with reasonable certainty that petitioner originally submitted the assignment for recordation on August 25, 2008. As such, is appropriate to approve the request.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a) was submitted with the Petition. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,625,599.

Brian W. Brown
Petitions Examiner
Office of Petitions

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Masao KATO, et al.
Application No. 11/206,067
Filed: August 18, 2005
For: **IMAGE SUPPLY DEVICE AND CONTROL METHOD THEREOF AND PRINTING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 1, 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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Technology Center 2100

MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of: WONFOR et al.
Application No. 11/206,093
Filed: August 16, 2005
For: COPY PROTECTION FOR VIDEO SIGNAL USING NARROWED HORIZONTAL SYNCHRONIZATION SIGNALS AND AMPLITUDE MODULATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02 (VIII))

This is a response to the petition filed August 16, 2005, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
[items bolded for emphasis]

The petition filed August 16, 2005 fails to adequately meet requirements (b), (c) (d) and (e) of the criteria set forth above. In regards to requirement (b) above, the instant petition states that "If the Office determines that all claims are not directed to a single **inventor**, Applicant will make an election without traverse". The correct and complete statement required to be made by Applicant (as indicated above) is "**if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status**". A corrected statement is required. With respect to requirement (c) above, the instant petition fails to submit a statement that a pre-examination search was made, listing the **field of search** by class and subclass, etc. The pre-examination search **must be directed to the invention as claimed (in the instant application) for which special status is requested**. Reliance on the partial search of a related application with "similar subject matter" i.e. 380/15 from U.S. application SN 08/062,866, is not sufficient. With respect to requirement (d) above, a copy of cited international application WO91/16791 has not reached the file. In addition, the submission is inconsistent with respect to the reference identified as "Ryan (U.S. 5,130,810)" on form PTO/SB/08A. In the petition, a detailed discussion is directed to a reference identified as "Ryan (U.S. 5,120,810)". Clarification and correction is requested. In regards to requirement (e) above, while a discussion of the references has been provided, it lacks the specificity required under 37 CFR 1.111 (b) and (c). 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. The petition must specifically point out how ***the claimed subjected matter*** is patentable over the cited references. As identified in the instant petition, the recitation in independent claims 106 and 119 directed to "modifying ... signal includes positive going pulses which cause a reduced amplitude in a recording of a copy protected video signal" and "whereby the resulting copy protected video signal is modified or enhanced" is said to distinguish over the cited references. However, independent claim 119 lacks the recited language identified above.

Minimally, petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above, should a requirement for election to a single invention be made by the examiner.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

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Technology Center 2100

MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of: WONFOR et al.
Application No. 11/206,093
Filed: August 16, 2005
For: COPY PROTECTION FOR VIDEO SIGNAL USING NARROWED HORIZONTAL SYNCHRONIZATION SIGNALS AND AMPLITUDE MODULATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02 (VIII))

This is a response to the renewed petition filed July 20, 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special, originally filed on August 16, 2005, and dismissed on June 22, 2006.

The Petition is **DENIED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
[items bolded for emphasis]

The petition filed August 16, 2005 fails to adequately meet requirements (b) and (c) of the criteria set forth above. In regards to requirement (b) above, the instant petition states that "While the two independent Claims 106 and 119 *here are not directed to the identical invention* ... " and "If the Office determines that all claims are not directed to a single invention, Applicant will make an election without traverse". The intent of these statements is unclear. The complete statement required to be made by Applicant (as indicated above) is "**if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status**".

With respect to requirement (c) above, the instant petition fails to submit a statement that a pre-examination search was made, listing the **field of search** by class and subclass, etc. The pre-examination search **must be directed to the invention as claimed (in the instant application) for which special status is requested**. As stated in the earlier decision, Petitioner's reliance on the partial search of a related application with "similar subject matter" i.e. 380/15 from U.S. application SN 08/062,866 (now U.S. Patent No. 5,583,936), is not sufficient. Specifically, a review and comparison of the claims of the instant application with those of U.S. Patent No. 5,583,936 show the claims to be different and of varying scope from each other. The claims of the instant application are drawn to a method of modifying a copy protected video signal that includes horizontal sync pulses and positive going pulses which cause a reduced amplitude comprising the act of reducing the duration of at least one horizontal sync pulse ... and a method of providing a copy protected video signal by adding AGC pulses, reducing the duration of the horizontal sync pulses and adding a negative going pulse following a color burst .... A required search for the claimed subject matter in class 380 subclasses 201, 203-207, 210, 216, 222 and 226 should have been included. This required search area (for the claims of the instant application) was confirmed with an (primary) Examiner in the Art Unit currently assigned this application.

Accordingly, the renewed Petition to Make Special is **DENIED** since the requirements for special status under MPEP § 708.02(VIII) have NOT been met. The application is being returned to the Examiner's docket to await examination in its proper turn based on its effective filing date.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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UNITED STATES DEPARTMENT OF COMMERCE
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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Oliver Fisher	: DECISION ON REQUEST FOR
Patent Number	: 7644391	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,095	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	**DECISION ON REQUEST TO**
Morio MATSUMOTO	:	**PARTICIPATE IN PATENT**
Application No.: 11206099	:	**PROSECUTION HIGHWAY**
Filed: August 18, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 125069	:	**TO MAKE SPECIAL UNDER**
For: KEYSTONE CORRECTION USING A PART OF EDGES OF A SCREEN	:	**37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 20, 2007 to make the above-identified application special.

The request and petition are **DISMISSED**.

DISCUSSION

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).

Conditions (1), (2), and (4) to (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fail meet condition (3) above.

Regarding the requirement of condition (3), Petitioner has not amended the U.S. claims to sufficiently correspond to the allowable/patentable claims in the JPO application. Claims will be considered to sufficiently correspond where, accounting for differences due to translations and claim format requirement, the claims are of the same or similar scope.

A proper response in this case must include an amendment to cancel Claims 10-16, since there is no correspondence of the method claims in the JP application.

CONCLUSION

For the above reasons, the "Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the JPO and the USPTO" filed March 20, 2007 is **DISMISSED** without prejudice.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Christine Oda at 571-273-1602.

Telephone inquiries concerning this decision should be directed to Christine Oda at 571-272-1602.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

C. Oda

Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	**DECISION ON REQUEST TO**
Morio MATSUMOTO	:	**PARTICIPATE IN PATENT**
Application No.: 11206099	:	**PROSECUTION HIGHWAY**
Filed: August 18, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 125069	:	**TO MAKE SPECIAL UNDER**
For: KEYSTONE CORRECTION USING A PART OF EDGES OF A SCREEN	:	**37 CFR 1.102(d)**

This is a decision in response to the "PRELIMINARY AMENDMENT" filed May 31, 2007. The response is being treated as a petition requesting reconsideration of the previous decision dated May 3, 2007, dismissing the request to participate in the Patent Prosecution Highway (PPH) pilot program and Petition to Make Special under 37 CFR 1.102(d) filed March 20, 2007. Please note, preliminary amendment filed on May 29, 2007 is considered non-compliant since the text to claim 17 lacks a clean version of the original claim.

The request and petition are **GRANTED**.

DISCUSSION

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 petitioner has amended the U.S. claims to sufficiently correspond to the allowable/patentable claims in the JPO application, by cancelling claims 10 to 16.

CONCLUSION

For the above reasons, the request to participate in the PPH pilot program and petition comply with the above requirements and the request and petition is **GRANTED**. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Christine Oda at 571-272-1602.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Jagtiani + Guttag
10363-A Democracy Lane
Fairfax, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
William A. Barr et al.	:	
Application No. 11/206,103	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. BARR-0001-CP4	:	FROM RECORD
	:	

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 12, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jagtiani + Guttag has been revoked by the applicants of the patent application on December 26, 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Parker Intellectual Property Law Office**
536 Pantops Center, #234
Charlottesville, VA 22911

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Yousuke Tsukuda	:	
Patent Number: 7,514,140	:	
Issue Date: 04/07/2009	:	
Application No. 11/206108	:	ON REQUEST FOR
Filing or 371(c) Date: 08/18/2005	:	RECONSIDERATION OF
Attorney Docket Number: 023174-0138	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed June 3, 2009. Patentee requests that the patent term adjustment be increased from 126 days to 358 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-identified patent. The matter is properly treated under 37 CFR 1.705(d).

Patentee also requests 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. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is hereby **DISMISSED**.

On April 7, 2009, the above-identified application matured into U.S. Patent No. 7,514,140, with a patent term adjustment of 126 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentee has recalculated the Patent Term Adjustment ("PTA") under the courts interpretation of the PTA statute as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee has "attached [a] sheet [which] details the circumstances during prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing of examination of such application as set forth in § 704." Application for PTA at p.2. Patentee asserts that that the correct patent term adjustment is 358 days (based on 307 days under 37 CFR 1.702(a) *plus* 232 days under 37 CFR 1.702(b) *less* 181 days of applicant delay under 37 CFR 1.704).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on April 7, 2009, the application was pending three years and 232 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 307 days is correct. At issue is whether patentee should accrue 307 days for Office failure to take a certain action within a specified time frame (or examination delay) as well as 232 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

The Office contends that the period of 232 days of delay in issuance of the patent overlaps with the period of 307 days of examination delay. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 18, 2005, to the date the patent issued on April 7, 2009. Prior to the issuance of the patent, 307 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 232 days for Office delay in issuing the patent overlap with the 307 days of Office examination delay. During that time, the issuance of the patent was delayed by 307 days, not 307 days and 232 days. The Office took 14 months and 307 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 307 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 232 days after its filing date. However, the Office did not delay 307 days and also delay an additional 232 days. Accordingly, 307 days of adjustment was properly entered because the period of delay of 232 days of delay in issuance of the patent overlaps with the 307 days of delay attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the required $200.00 patent term adjustment application fee. As the fee set forth at 37 CFR 1.18(e) is a prerequisite prior to treatment on the merits of any application for patent term adjustment, the fee will not be refunded.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of
Hangauer, et al.
Application No. 11/206,115
Deposited: August 16, 2005
Attorney Docket No. 28856-502 CON
For: PROTEIN KINASE AND PHOSPHATASE INHIBITORS AND METHODS FOR DESIGNING THEM

ON PETITION

This is a decision on the petition filed October 7, 2005, to accord the above-identified application a filing date of August 16, 2005 on two grounds. First, petitioners assert incorporation by reference as the means by which the drawings from application no. 10/277,217 should be considered part of the present application. This type of petition is treated under 37 CFR 1.53(e). Second, petitioners request that pursuant to 37 CFR 1.57(a)(3), Figures 1- 16e of the parent application be added to the present application because the present application contains a priority/benefit claim to the parent application.

The petition under 37 CFR 1.53(e) is **GRANTED**, for the reasons explained below.

The petition under 37 CFR 1.57(a)(3) is **DISMISSED AS MOOT**.

On August 15, 2005, the application was deposited.

On September 7, 2005, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition argues that the above-identified application is entitled to a filing date of August 16, 2005 based on Rule 57(a)(3) or incorporation by reference practice.

While both these arguments are valid, a simpler reason for granting the petition exists.

It is noted that the above-identified application contains composition and method claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence.)

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures 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, it 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).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed September 7, 2005 was mailed in error and is hereby withdrawn. The petition is **granted**. The $400.00 petition fee will be credited to deposit account no. 50-0311.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **August 16, 2005**. Then the application will be forwarded to the examiner of record for consideration of the second preliminary amendment filed on October 7, 2005, which seeks to add Figures 1-16e from prior application no. 10/277,217 to the present application.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
PERLMUTTER, KEREN O. et al :
Serial No.: **11/206,182** :
Filed: August 18, 2005 :
For: **REDUCING DIFFERENTIAL RESOLUTION OF SEPARATIONS** :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, August 18, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 1A, 1B, and 2, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

In re Application of	:	
Takeshi Fukunaga, et al.	:	
Application No.: 11/206,195	:	ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No.: 12732-0010004	:	

This is a decision on the petition, filed August 4, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[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.*

The application is being referred to Technology Center AU 2889 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

cc: JOHN F. HAYDEN
FISH & RICHARDSON P.C.
1425 K STREET, NW, 11TH FLOOR
WASHINGTON, DC 20005-5070

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Vladislav A. Oleynik	:	
Application No. 11/206,200	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. A-8829.DIV	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed September 6, 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 **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition meets all the requirements set forth above. Accordingly, the above-identified application has been accorded "special" status.

The $130 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2636 for action on the merits commensurate with this decision.

BethAnne C. Bayoan
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Hasebe, et al.
Application No. 11/206,204
Filed: August 18, 2005
Attorney Docket No. TAK-027

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 June 6, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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.

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioners should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3618 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/206,204	08/18/2005	3618	1000	TAK-027	8	1

CONFIRMATION NO. 5343

CORRECTED FILING RECEIPT

32628
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OC000000031463032

Date Mailed: 08/08/2008

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)

Masahiro Hasebe, Hikone-shi, JAPAN;
Yukitoshi Narimoto, Oumihachiman-shi, JAPAN;

Assignment For Published Patent Application

TAKATA CORPORATION, Tokyo, JAPAN

Power of Attorney:
Manabu Kanesaka--31467
Kenneth Berner--37093

Domestic Priority data as claimed by applicant

This application is a CIP of 10/671,803 09/29/2003 PAT 7,121,584

Foreign Applications
JAPAN 2004-243936 08/24/2004

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 **US 11/206,204**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Airbag and airbag system

Preliminary Class

280

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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/22/2010

Applicant	: Yoshimasa Ohshima	: DECISION ON REQUEST FOR
Patent Number	: 7643139	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,209	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 05/18/2010

Applicant : Yoshimasa Ohshima
Patent Number : 7643139
Issue Date : 01/05/2010
Application No : 11/206,209
Filed : 08/18/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **391** 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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BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON MA 02109-9601

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JAN 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Terry O. Herndon	:	
Application No. 11/206,232	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 006232-00002	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 30, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, Terry O. Herndon, declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2862 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 12 2008

In re Application of :
Weinshilboum et al. :
Application No. 11/206,251 : LETTER REGARDING
Filed: August 16, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 07039-600002 :

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed November 12, 2008. Applicants disclose that the initial determination of patent term adjustment of three hundred fifty-eight (358) days may be longer than appropriate.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is THREE HUNDRED ONE (301) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On August 15, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 358 days. Applicants direct the Office's attention to the Response to Notice to File Missing Parts filed in February 2006.

A review of the record confirms that entry of a period of reduction pursuant to 37 CFR 1.704(b) is warranted. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in

> §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Applicants did not file a complete and proper response to the Notice to File Missing Parts of Application mailed September 29, 2005, until February 24, 2006. This was 57 days in excess of the three-month period provided for in 37 CFR 1.704(b). Thus, with respect to responding to the Notice to File Missing Parts of Application, applicants failed to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(b). The period of reduction is 57 days, counting the number of days in the period beginning on December 30, 2005, the day after the date that is three months after the date of mailing of the Notice, and ending on February 24, 2006, the date the reply was filed. A period of reduction of 57 days is being entered.

Given the entry of the period of reduction of 57 days, the correct determination of PTA at the time of the mailing of the notice of allowance is THREE HUNDRED ONE (301) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (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
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

Day : Wednesday

Date: 12/10/2008

PALM INTRANET

Time: 20:50:29

PTA Calculations for Application: 11/206251			
Application Filing Date:	08/16/2005	PTO Delay (PTO):	358
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	301
PTO Delay Adjustment:	-57		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	12/10/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		57	
48	08/15/2008	MAIL NOTICE OF ALLOWANCE			
47	08/14/2008	ISSUE REVISION COMPLETED			
46	08/14/2008	DOCUMENT VERIFICATION			
45	08/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	08/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
43	08/07/2008	NOTICE OF ALLOWABILITY			
42	05/30/2008	DATE FORWARDED TO EXAMINER			
41	04/28/2008	RESPONSE AFTER NON-FINAL ACTION			
40	01/28/2008	MAIL NON-FINAL REJECTION			
39	01/22/2008	NON-FINAL REJECTION			
38	08/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	11/08/2007	DATE FORWARDED TO EXAMINER			
35	11/02/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
34	10/09/2007	MAIL RESTRICTION REQUIREMENT	358		-1
33	10/01/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
32	09/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
30	02/26/2007	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
29	02/15/2007	PG-PUB ISSUE NOTIFICATION			
28	08/03/2006	REFERENCE CAPTURE ON IDS			
27.7	08/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	08/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

26	03/24/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	03/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/15/2006	TRANSFER INQUIRY TO GAU			
23	03/13/2006	APPLICATION RETURN FROM OIPE			
22	03/14/2006	APPLICATION IS NOW COMPLETE			
21	03/13/2006	APPLICATION RETURN TO OIPE			
20	03/13/2006	APPLICATION RETURN FROM OIPE			
19	03/13/2006	APPLICATION IS NOW COMPLETE			
18	02/24/2006	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
17	03/10/2006	APPLICATION RETURN TO OIPE			
16	03/10/2006	APPLICATION RETURN FROM OIPE			
15	03/10/2006	APPLICATION IS NOW COMPLETE			
13	03/10/2006	APPLICATION RETURN TO OIPE			
12	03/09/2006	APPLICATION DISPATCHED FROM OIPE			
11	03/09/2006	APPLICATION IS NOW COMPLETE			
9	02/24/2006	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	02/24/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	03/06/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	09/16/2005	CLEARED BY L&R (LARS)			
4	09/01/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/01/2005	CASE CLASSIFIED BY OIPE			
2	08/25/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/16/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Gerhard ENDERS, et al
Application No. 11/206,306
Filed: August 18, 2005
Attorney Docket No. 543822017300

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no 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: GERHARD ENDERS
FEURSSTRASSE 14G
82140 OLCHING
GERMANY

cc: GERO G. MCCLELLAN,
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD,
SUITE 1500
HOUSTON, TX 77056

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/206,306	08/18/2005	Gerhard Enders	543822017300

CONFIRMATION NO. 4499

OC000000025721773

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2007.

- 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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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	
Tadamitsu Sato	:	ON REQUEST
Patent Number: 7,589,713	:	FOR RECONSIDERATION OF
Issue Date: 09/15/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/206319	:	and
Filing or 371(c) Date: 08/16/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 9281-5174	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 14, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-five (1065) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-five (1065) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand sixty-five (1065) days**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,713 B2

DATED : **September 15, 2009**

INVENTOR(S) : Sato

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 786 days.

Delete the phrase "by 786 days" and insert – by 1065 days--

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Tadamitsu Sato	: DECISION ON REQUEST FOR
Patent Number	: 7589713	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1344** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 03/26/09

TO SPE OF : ART UNIT 3600

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/206,327 Patent No.: 7,387,041

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 review request for Certificate of Correction filed 06/28/08

Delora Dillard
Certificates of Correction Branch
703-308-9250 ext. 172

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: _____

C Mason — SPE

3655 — Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stolowitz Ford Cowger, LLP/Cypress
621 Sw Morrison Street
Suite 600
Portland, OR 97205

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of	:	
David Wright	:	
Application No. 11/206,373	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 16820.P619	:	FROM RECORD
	:	

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 21, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Stolowitz Ford Cowger, LLP/ Cypress has been revoked by the assignee of the patent application on May 14, 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: **Daniel E. Ovanezian**
Blakely, Sokoloff, Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

Mail Date: 04/21/2010

Applicant	: David Wright	: DECISION ON REQUEST FOR
Patent Number	: 7623565	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,373	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Marco Peretti	:	
Application No. 11/206,376	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. AUO-00401	:	FROM RECORD
	:	

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 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley Hoag, LLP has been revoked by the assignee of the patent application on May 7, 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: BEYOND TRUST CORPORATION
125 BREWERY LANE
BLDG. 320
PORTSMOUTH, NH 03801

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/20/2010

Applicant	: Jiang Ding	: DECISION ON REQUEST FOR
Patent Number	: 7630764	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **732** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of :
Mirzafer Abatchev et al. :
Application No. 11/206,414 :
Filed: 18 August 2005 :
Attorney Docket No. MI22-2910 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before March 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 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 and Publication Fee; (2) the petition fee of $1500.00; and (3) a statement of unintentional delay. Accordingly, the Issue 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 Bucci
Petitions Examiner
Office of Petitions

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THE SMALL PATENT LAW GROUP LLP
611 OLIVE STREET, SUITE1611
ST. LOUIS MO 63101

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of
Daniel Farrell, et al.
Application No. 11/206,429
Filed: August 18, 2005
Attorney Docket No. PB 04 0021 (793-12US)

ON PETITION

This is a decision in response to the petition, filed May 21, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed October 19, 2006. A Notice of Abandonment was mailed on May 14, 2007. In response, on May 21, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on May 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2883 for appropriate action by the Examiner in the normal course of business on the amendment received May 21, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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:
HYATT, Edward Craig
Application No.: 11/206,436
Filed: August 18, 2005
Attorney Docket No.: 9314-126

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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31 MAY 2006

Brown Raysman Millstein Felder & Steiner LLP
12th Floor
1880 Century Park East
Los Angeles CA 90067

In re Application of	:	
JIN, CHENG, et al.	:	
Application No. 11/206,445	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO MAKE SPECIAL
For: **METHOD AND APPARATUS FOR NETWORK CONGESTION CONTROL USING QUEUE CONTROL AND ONE-WAY DELAY MEASUREMENTS**	:	

This is a decision on the petition filed May 1, 2006 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Georgios Palaskas	: DECISION ON REQUEST FOR
Patent Number	: 7653147	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/206,453	08/17/2005	Casey L. Miller	200503633-1	6216

7590 04/14/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
WU, JINGGE

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2008 DTERRY
08/22/2005 DTESSEM1 00000076 082025 11206453
02 FE:1111 500.00 CR
04 FC:1202 850.00 CR

FORM PET651G (Rev. 08/07)

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FOX ROTHSCHILD LLP
P O BOX 592
112 NASSAU STREET
PRINCETON NJ 08542-0592

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Dopnato BATTISTA et al.	:	
Application No. 11/206,466	:	DECISION ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. **P27,917-A- USA**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 19, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of August 19, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on February 23, 2009 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1794 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **PETER J. BUTCH, III**
FOX ROTHSCHILD LLP
997 LENOX DRIVE, BLDG. #3
LAWRENCENVILLE NJ 08648

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

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SEP 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhiliang ZHENG	:	
Application No. 11/206,469	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 58752-8002.US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 1, 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 William F. Ahmann on behalf of all the attorneys of record associated with Customer Number 22918.

The attorneys of record associated with Customer Number 22918 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 copied below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ZHILIANG ZHENG
P.O. BOX 60576
SUNNYVALE, CA 94088

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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
11/206,469	08/17/2005	Zhiliang Zheng	58752-8002.US01

CONFIRMATION NO. 5752

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000038023214

Date Mailed: 09/29/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2009.

- 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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SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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MAR 17 2008

In re Application of

COHEN, Daniel Scott
Application No. 11/206,474
Filed: August 17, 2005
Attorney Docket No. **3444P**

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 02, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Joseph A. Sawyer, Jr. on behalf of all attorneys of record who are associated with customer No. 29141. 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 the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DANIEL SCOTT COHEN**
2002 BANK STREET
BALTIMORE, MD 21231

cc: **SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL**
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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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SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Daniel Scott Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7639764	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,474	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Rustad et al.	:	
Application No. 11/206,486	:	DECISION GRANTING
Filed: AUGUST 17, 2005	:	STATUS UNDER
For: RESPONSE TIME ANALYSIS OF	:	37 CFR 1.47
NETWORK PERFORMANCE	:	

This is in response to a Petition Under 37 CFR 1.47(a), filed February 13, 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, Steven Schaffer, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek D. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MR. STEVEN SCHAFFER
9738 COLINADE DRIVE
LONE TREE, CO 80124

COPY MAILED

MAR 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Rustad et al.	:	
Application No. 11/206,486	:	LETTER
Filed: AUGUST 17, 2005	:	
For: RESPONSE TIME ANALYSIS OF	:	
NETWORK PERFORMANCE	:	

Dear Mr. Schaffer:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. 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: FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Joseph V. Rustad	: DECISION ON REQUEST FOR
Patent Number	: 7574504	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,486	: OF WYETH
Filed	: 08/17/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 05/18/2010

Applicant : Joseph V. Rustad
Patent Number : 7574504
Issue Date : 08/11/2009
Application No : 11/206,486
Filed : 08/17/2005

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **961** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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 1.18(e), the 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 deterimation 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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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhiliang Zheng	:	DECISION ON PETITION
Application No. 11/206,487	:	TO WITHDRAW
Filed: August 17, 2005	:	FROM RECORD
Attorney Docket No. 58752-8001.US01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by William F. Ahmann, on behalf of all practitioners of record who are associated with Customer Number 22918.

All attorneys/agents associated with the Customer Number 22918 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Non-Final Office action mailed May 26, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ZHILIANG ZHENG
P.O. BOX 60576
SUNNYVALE, CA 94088

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
11/206,487	08/17/2005	Zhiliang Zheng	

CONFIRMATION NO. 5734

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000038084063

Date Mailed: 10/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2009.

- 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.

/atkelley/

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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KONRAD RAYNES & VICTOR, LLP.
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Application of	:	
David Maxwell Cannon, et al.	:	
Application No. 11/206,488	:	DECISION GRANTING PETITION
Filed: August 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SJO920050063US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 18, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 27, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2163 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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.*

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,384,867 B2

APPLICATION NO. : 11/206,491

DATED : June 10, 2008

INVENTOR(S) : Lai et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the References Cited (56):

Please delete "2004/0078723 A1 4/2004 Gross et al." and insert - -2004/0018723 A1 1/2004 Byun et al.- - therefor.

APPROVED: /SP/ (11/04/2008)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

PATTERSON & SHERIDAN LLP
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056-6582

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081104

DATE : November 04, 2008

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction on Patent No.: 7384867

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:

/SUE A PURVIS/
Supervisory Patent Examiner.Art Unit 2826

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: David Maxwell Cannon	: DECISION ON REQUEST FOR
Patent Number	: 7634516	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,496	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhiliang ZHENG	:	
Application No. 11/206,512	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. 58752-8003.US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 1, 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 William F. Ahmann on behalf of all the attorneys of record associated with Customer Number 22918.

The attorneys of record associated with Customer Number 22918 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 copied below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ZHILIANG ZHENG
P.O. BOX 60576
SUNNYVALE, CA 94088

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/206,512	08/18/2005	Zhiliang Zheng	58752-8003.US01

CONFIRMATION NO. 6170

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000038023162

Date Mailed: 09/29/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2009.

- 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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DIW Oct-05

GUNNISON MCKAY & HODGSON, LLP
GARDEN WEST OFFICE PLAZA, SUITE 220
1900 GARDEN ROAD
MONTEREY CA 93940

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Glenn et al.	:	
Application No. 11/206,513	:	DECISION GRANTING PETITION
Filed: 17 August, 2005	:	
Atty Dckt No. G0007-2C	:	

This is a decision in reference to the petition filed on 6 October, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 17 August, 2005, rather than the currently-accorded filing date of 19 August, 2005.

The petition is **granted**.

Petitioner alleges that the application was deposited in Express Mail service on 17 August, 2005. In support, on 6 October, 2005, petitioners supplied a copy of Express Mail Label No. EV683561016US (the same Express Mail number found on the itemized application cover sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "8-19-05" the label also contains an Official USPS postmark dated 17 August, 2005. Additionally, a review of the USPS Track and Confirm Internet database shows that this Express Mail item was accepted by the USPS on 17 August, 2005.

In view of the above, the correct date of deposit in Express Mail is 17 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 17 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

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

WEATHERLY KERVEN & SEIGEL LLC
115 PERIMETER CENTER PLACE
SUITE 1082
ATLANTA GA 30346-1245

COPY MAILED

JUL 22 2008

OFFICE OF PETITIONS

In re Application of :
Nossi Taheri :
Application No. 11/206,530 : ON PETITION
Filed: August 18, 2005 :
Attorney Docket No. B001.P002U2 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 6, 2008.

The petition is **DISMISSED** because it is unsigned. It appears that the petition was intended to be electronically signed by Mr. Mitchell G. Weatherly, an attorney registered to practice before the U.S. Patent and Trademark Office, but, is not signed in accordance with 37 CFR 1.4.

Further, 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). 711.03(c)(II)(C) and (D).

While the petition includes a proposed reply and the requisite petition fee, it lacks a proper unintentional delay statement, since the petition containing the statement of unintentional delay is not signed.

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and a ratification of omissions noted above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WEATHERLY KERVEN & SEIGEL LLC
115 PERIMETER CENTER PLACE
SUITE 1082
ATLANTA, GA 30346-1245

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Nossi Taheri	:	
Application No. 11/206,530	:	DECISION ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. B001.P002U2	:	

This is a decision in response to the renewed petition, filed July 28, 2008, under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 27, 2007. On March 6, 2008, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 22, 2008. On July 28, 2008, the present petition was filed, which is being accepted as a ratification of the unsigned papers filed March 6, 2008.

Accordingly, 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 appeal fee; (2) the petition fee of $1.540; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on March 6, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

This application is being referred to Technology Center AU 3782 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred 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
www.uspto.gov

DAVID ODELL SIMMONS
7637 PARKVIEW CIRCLE
AUSTIN TX 78731

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FEB 2 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Steve Eugene EVERETT et al.	:	
Application No. 11/206,567	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. EVERETT 03	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed January 11, 2006, 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 is not signed by all the applicants, the assignee, or by a registered attorney/agent (37 CFR 1.33) nor does it set forth how the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements.

Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

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 David Bucci at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3635 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Steve Eugene Everett
Jay Dean Everett
1619 Wheeless Ln.
Austin, TX 78723

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NOV 15 2006
OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

In re Application of	:	
THEODORUS KIERKELS, et al.	:	
Application No. 11/206,574	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 246152021010	:	FROM RECORD
	:	

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 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Thomas Ciotti and the attorneys of MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on October 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON & VANDERHYE, PC**
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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
11/206,574	08/17/2005	Joannes Gerardus Theodorus Kierkels	246152021010

CONFIRMATION NO. 7105

OC000000021234517

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 11/15/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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
11/206,574	08/17/2005	Joannes Gerardus Theodorus Kierkels	246152021010

CONFIRMATION NO. 7105

OC000000021234488

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER, CO 80264

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Gregory M. Lawrence :
Application No. 11/206,590 : DECISION REFUSING STATUS
Filed: August 17, 2005 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 023134.0112PTUS :
For: **APPARATUS AND METHOD OF MANUFACTURING BODILY FLUID TEST STRIP**

This is a decision on the petition under 37 CFR 1.47(b), filed December 8, 2005 (certificate of mailing dated December 6, 2005).

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on August 17, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on September 6, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on December 8, 2005, with a request for an extension of time within the first month.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings).

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (5) set forth above.

To establish the 37 CFR 1.47(b) applicant's proprietary interest in the subject patent application, the instant petition was accompanied by a copy of a complaint filed with the Superior Court of Marion County, Indiana, detailing alleged contractual breaches committed by the non-signing sole inventor. The complaint, by itself, does not establish that 37 CFR 1.47(b) applicant has sufficient proprietary interest to prosecute the patent application without the sole inventor. Further to this point, Section 409.03(f) of the *Manual of Patent Examining Procedure* provide, in pertinent part, that:

> 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.

The copy of the complaint filed with the instant petition is not sufficient to establish proprietary interest in light of the guidance provided by MPEP § 409.03(f) above. Any renewed petition filed must be accompanied by either an assignment, or agreement to assign, the application executed by Mr. Lawrence or a legal memorandum indicating that the a court of competent jurisdiction would by the weight of the authority award title of the invention to the 37 CFR 1.47(b) applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patton Boggs
1660 Lincoln Street
Suite 2050
Denver, CO 80264

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of	:
Gregory M. Lawrence	:
Application No. 11/206,590	: DECISION ACCORDING STATUS
Filed: August 17, 2005	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 023134.0112PTUS	:
For: APPARATUS AND METHOD OF MANUFACTURING BODILY FLUID TEST STRIP	

This is in response to the renewed petition under 37 CFR 1.47(b), filed April 14, 2006.

The renewed 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.

The above-identified application was filed on August 17, 2005, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on September 6, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(b) was filed on December 8, 2005, and dismissed by a decision mailed January 17, 2006. The instant renewed petition was filed on April 14, 2006, with a request for an extension of time within the first month.

By the instant renewed petition and evidentiary documents, petitioner has established that the sole inventor has refused to join the prosecution of the application and that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Gregory M. Lawrence
5234 Ochs Avenue
Indianapolis, IN 46254

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OFFICE OF PETITIONS

In re Application of :
Gregory M. Lawrence :
Application No. 11/206,590 : LETTER
Filed: August 17, 2005 :
Attorney Docket No. 023134.0112PTUS :
For: APPARATUS AND METHOD OF MANUFACTURING BODILY FLUID TEST STRIP

Dear Mr. Lawrence:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the sole inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Patton Boggs
1660 Lincoln Street
Suite 2050
Denver, CO 80264

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/21/2010

Applicant	: David Dawson	: DECISION ON REQUEST FOR
Patent Number	: 7599954	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **391** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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James Sheats
244 Webster St.
Palo Alto CA 94301

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Sheats
Application No. 11/206,605
Filed: August 18, 2005
Attorney Docket No. IC009B
For: METHOD OF PACKAGING AND INTERCONNECTION OF INTEGRATED CIRCUITS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2009, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed December 14, 2007, which set an extendable three month period for reply. No reply or extension of time under 37 CFR 1.136(a) being received in the Office, this application became abandoned on March 15, 2008. A Notice of Abandonment was mailed on July 10, 2008.

Applicant has submitted a RCE and required $405.00 fee and amendment in reply to the December 14, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 14, 2007 final Office action, and the $810.00 petition fee.

The statement of unintentional delay was signed by a person who may not have been in a position of knowing that the delay in filing a timely response was unintentional. Tue Nguyen is not an attorney of record and all correspondence was mailed to the sole inventor. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record, unless a proper change of correspondence address is filed.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2811 for consideration of the RCE and amendment filed on 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: TUE NGUYEN
496 OLIVE AVENUE
FREMONT CA 94539

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-07

CURTIS V. HARR
P.O. BOX 2842
FARGO ND 58108-2842

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APR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Russ Cameron Anderson	:	DECISION ON PETITION
Application No. 11/206,611	:	
Filed: 18 August, 2005	:	
Atty Docket No. NOTI-001	:	

This is a decision on the petition, filed on 16 January, 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 17 August, 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.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 19 July, 2007, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3611 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: 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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/206,611	08/18/2005	Russ Cameron Anderson	NOTI-001

CONFIRMATION NO. 7238

Curtis V. Harr
P.O. Box 2842
Fargo, ND 58108-2842

Date Mailed: 04/09/2007

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 07/19/2007.

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Charles Abraham	: DECISION ON REQUEST FOR
Patent Number	: 7640103	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

Mail Date: 04/21/2010

Applicant	: Richard J. Mehus	: DECISION ON REQUEST FOR
Patent Number	: 7615122	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,618	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **937** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 04/30/2010

Applicant	: Christophe J. Dorrer	: DECISION ON REQUEST FOR
Patent Number	: 7609385	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **773** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Abraham, et al.	:	
Application No. 11/206,623	:	DECISION ON PETITION
Filed: August 18, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18970US01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 18, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application 10/394,404, filed March 21, 2003, set forth in the Amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 3662 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed application No. 10/394,404.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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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
11/206,623	08/18/2005	3662	500	18970US01	18	2

CONFIRMATION NO. 6190

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000037238876

Date Mailed: 08/06/2009

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)

Charles Abraham, Los Gatos, CA;
Frank van Diggelen, San Jose, CA;

Assignment For Published Patent Application

Global Locate, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CIP of 10/394,404 03/21/2003 PAT 7,190,712
which is a CIP of 09/900,499 07/06/2001 PAT 6,704,348
which is a CIP of 09/861,086 05/18/2001 PAT 6,606,346

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 **US 11/206,623**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and apparatus for processing satellite signals at a satellite positioning system receiver

Preliminary Class

342

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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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Charles Abraham	: DECISION ON REQUEST FOR
Patent Number	: 7642959	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,623	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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ROBERT PLOTKIN, PC
45 BUTTERNUT CIRCLE
CONCORD MA 01742-1937

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of :
SPADEA, Joseph R. III :
Application No. 11/206,625 : DECISION ON PETITION
Filed: August 18, 2005 : TO WITHDRAW
Attorney Docket No. **S0002-1001** : 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 September 28, 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 of record no longer represents client" does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOSEPH R. SPADEA III**
11 RED TAIL RUN
CANTON, MA 02021

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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45 BUTTERNUT CIRCLE
CONCORD MA 01742-1937

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OFFICE OF PETITIONS

In re Application of
SPADEA, Joseph R. III
Application No. 11/206,625
Filed: August 18, 2005
Attorney Docket No. **S0002-1001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 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 Robert Plotkin, the sole attorney of record. Robert Plotkin has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Joseph R. Spadea, III at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOSEPH R. SPADEA, III**
11 RED TAIL RUN
CANTON, MA 02021

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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AUG 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Habib, et al.	:	
Application No. 11/206,632	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. E3833-00003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 28, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Duane Morris has been revoked by the assignee of the patent application on March 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Ted Sabety
One Penn Plaza
36th Floor
New York, NY 10119

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TIMOTHY J. MARTIN, P.C.
9250 WEST 5TH AVE
LAKEWOOD, CO 80226

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DEC 0 8 2008

In re Application of James L. Ferguson, Application No. 11/206,637 Filed: August 18, 2005 Attorney Docket No. 59567.833001.US0	: : : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 24, 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 October 25, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3747 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: John Wray Carpenter
555 17th Street Suite 3200
Denver, CO 20202

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. 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) 59567.830001.US0

First named inventor: James L. Ferguson

Application No.: 11/206,637 Art Unit: 3747

Filed: August 18, 2005 Examiner: Marguerite J McMahon

Title: SYSTEM AND METHOD FOR INCREASING THE AVAILABLE OXYGEN IN A COMBUSTION ENGINE

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 $ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Appeal Brief and Appeal Brief filing fee (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.

/John Wray Carpenter/	November 10, 2008
Signature	Date
John W. Carpenter	57,830
Typed or printed name	Registration Number, if applicable
555 17th Street Suite 3200	303.295.8043
Address	Telephone Number
Denver, CO 80202	
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.

11/206637 Examiner: MCMAHON, MARGUERITE GAU: 3747
Inventor: FERGUSON , JAMES Classification: 123/585.000
Status: 161 - ABANDONED -- FAILURE TO RESPOND TO AN OFFICE ACTION
Title: SYSTEM AND METHOD FOR INCREASING THE AVAILABLE OXYGEN IN A COMBUSTION ENGINE
Start Date: End Date:

bib_fee report (11 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/10/2008	11676	4	2453	$810.00	11/10/2008	DA 082623
11/10/2008	11677	4	2402	$270.00	11/10/2008	DA 082623
08/24/2007	134	1	2401	$250.00	08/24/2007	CK
08/24/2007	135	1	2253	$510.00	08/24/2007	CK
12/04/2006	9	1	2201	$100.00	12/01/2006	CK
12/04/2006	10	1	2202	$200.00	12/01/2006	CK
10/31/2005	87	1	2011	$150.00	10/31/2005	CK
10/31/2005	88	1	2111	$250.00	10/31/2005	CK
10/31/2005	89	1	2311	$100.00	10/31/2005	CK
10/31/2005	90	1	2051	$65.00	10/31/2005	CK
10/31/2005	91	1	2202	$125.00	10/31/2005	CK

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

Serial No.:	11/206,640	:	DECISION ON PETITION
Filed:	August 17, 2005	:	UNDER 37 C.F.R. § 1.48(a)
For:	Method and System to Synchronize Acoustic Therapy With Ultrasound Imaging	:	

This is a decision on the petition, filed March 17, 2009, to correct inventorship under 37 C.F.R. § 1.48(a)

The petition is **GRANTED**.

Accordingly, James Hossack has been added as a joint inventor of the above-identified patent application.

/Long V. Le/
Supervisory Patent Examiner
Art Unit 3768

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

Garry Goodman
1015 Gayley Ave. #592
Los Angeles CA 90024

COPY MAILED
JAN 14 2010

In re Application of	:	
Garry Goodman	:	
Application No.: 12/206650	:	DECISION ON
Filing or 371(c) Date: 09/08/2008	:	PETITION
Title of Invention:	:	
CLAMPING BALL END	:	
FOR MUSICAL STRINGS	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed November 7, 2009, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "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 Corrected Application Papers ("Notice"), mailed September 19, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 20, 2008. A Notice of Abandonment was mailed June 2, 2009.

July 6, 2009 Petition under 37 CFR 1.181

Applicant filed a petition to withdraw the holding of abandonment on July 6, 2009, including a response to the Notice, and wherein applicant stated that he did not receive the Notice, mailed September 19, 2008. The petition was dismissed in a Decision mailed August 24, 2009. The Decision dismissing the petition noted that the Office requirements for granting a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication have been modified. The Office requires a statement from the petitioner describing the system used for recording an Office action received at the correspondence address of record. The statement

should establish that the docketing system is sufficiently reliable. In addition, a copy of the petitioner's record(s) required to show non-receipt of the Office action should include either a copy of the master docket (usually for a law firm), or if no such master docket exists, the petitioner should so state and provide other evidence such as, but not limited to, the following: a copy of the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition was dismissed without prejudice. Applicant was advised to file a Request for Reconsideration of Petition and include the necessary statements and/or copies of application file, where the non-received Notice would have been entered had it been received.

The present petition

Applicant files the instant petition and petition fee in the amount of $750.00.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (**2**), Applicant is advised that before the merits of Applicant's petition may be considered, the correct petition fee must be submitted. The fee for a petition to revive an application based upon an unintentionally delayed response to an Office communication increased to $810.00 for a small entity, effective October 2, 2008. Applicant must submit the balance of the petition fee before the petition may be considered. Applicant is also advised to monitor the current fee schedule at www.uspto.gov/main/howtofees.htm.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,611,208	:	DECISION ON REQUEST
Day et al.	:	FOR
Issue Date: November 3, 2009	:	RECONSIDERATION OF
Application No. 11/206,659	:	PATENT TERM ADJUSTMENT
Filed: August 17, 2005	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
5253-1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 1, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand ten (1010) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand eleven (1011) days is **GRANTED to the extent indicated herein.**

With regards to the "B" delay period, the over three year period begins on August 18, 2008, the day after the date three years after the filing date of the application and ends on November 3, 2009, the date of patent issuance, and is 443 (not 441) days The period of overlap is the period which begins on August 18, 2008, and ends on the date of the mailing of an Office action, September 19, 2008, and is 33 (not 32) days. Accordingly, the non-overlapping period of "B" delay is 410 (not 409) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand eleven (1011)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,611,208 B2

DATED : **November 3, 2009** **DRAFT**

INVENTOR(S) : Day 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 601 days.

Delete the phrase "by 601 days" and insert – by 1011 days--

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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Roger L. Day	: DECISION ON REQUEST FOR
Patent Number	: 7611208	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1421** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Teena Augustino et al.	:	
Application No. 11/206,662	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 29914-722.201	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Cecily Anne O'Regan and all attorneys/agents associated with customer number 21971 has been revoked by the assignee, Archus Orthopedics, Inc. of the patent application on January 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Shay Law Group, LLP
2755 Campus Drive
Suite 210
San Mateo, CA 94403

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/206,662	08/17/2005	Teena M. Augostino	29914-722.201

CONFIRMATION NO. 4949

OC000000023467072

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Date Mailed: 04/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Grabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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
11/206,662	08/17/2005	Teena M. Augostino	

CONFIRMATION NO. 4949

OC000000023467104

66854
SHAY LAW GROUP, LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Date Mailed: 04/19/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2007.

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.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
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JUN 06 2007

OFFICE OF PETITIONS

In re Application of	:	
BROMAN, et al.	:	
Application No. 11/206,676	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. 29914-721.201	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to WILSON SONSINI GOODRICH & ROSATI has been revoked by the assignee of the patent application on January 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHAY LAW GROUP, LLP**
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

OCT 22 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

In re Application of:
Brandon D. McLarty, et al.
Serial No.: 11/206,689
Filed: August 18, 2005
Attorney Docket Number: **ONEN-2**
Title: **CONTACT NUMBER ENCAPSULATION SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on October 1, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and because the petition was not filed together with the application on or after August 25, 2006. See MPEP 708.02 and MPEP 708.02(a).

For the above-stated reasons, the petition is denied. Therefore, the file will be taken up by the examiner in its regular turn.

Any inquiry regarding this decision should be directed to Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST, SUITE 900
HUNTSVILLE, AL 35801

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OFFICE OF PETITIONS

In re Application of	:	
Donald L. Alcorn	:	
Application No. 11/206,695	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0A379-79412	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 17, 2006, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The medical certificate submitted with petition on April 17, 2006 does not state that Mr. Donald L. Alcorn might not be available to assist in the prosecution of the application if it were to run its normal course.

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 2617 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST
SUITE 900
HUNTSVILLE, AL 35801

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald L. Alcorn	:	
Application No. 11/206,695	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0A379-79412	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed September 6, 2006, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes doctors' certificates from Dr. Larry Epperson, MD and Dr. Natividad Stover, MD stating that Mr. Alcorn might not be available to assist in the prosecution of his patent application if the Parkinson's disease were to run its normal course. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 2617 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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JUL 14 2008

OFFICE OF PETITIONS

Applicant: Ishikawa
Appl. No.: 11/206,706
Filing Date: August 17, 2005
Title: IMAGE DEFECT INSPECTION METHOD, IMAGE DEFECT INSPECTION APPARATUS, AND APPEARANCE INSPECTION APPARATUS
Attorney Docket: 55825/DBP/A400
Pub. No.: US 2006-0098863 A1
Pub. Date: May 11, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 13, 2007 and copy received on June 23, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors as the wrong drawings were published.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on June 20, 2007, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the drawings of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due

[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).

course, unless the application is allowed and the patent issues before the application is republished.

The amendment received by the Office on October 7, 2005 to the drawings, from another law firm, which included the above-identified application number and was scanned into this application and published has been removed from the application. Applicant's statement that the Office should not have accepted a submission from an attorney who does not have Power of Attorney the present application is not persuasive. Registered practitioners papers may submit papers to the Office in a representative capacity pursuant to 37 CFR 1.34.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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Paper No.

JONES & SMITH , LLP
2777 ALLEN PARKWAY
SUITE 800
HOUSTON TX 77019

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MAY 09 2008

In re Application of :
Dawson et al. : DECISION ON PETITION
Application No. 11/206,708 :
Filed: August 18, 2005 :
Atty Docket No. 020569-10000 :
(P205-1440-U :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed December 21, 2007. This decision also responds to the REQUEST FOR REFUND filed December 21, 2007.

The petition to revive pursuant to 37 CFR 1.137 is **GRANTED**.

The request for refund is **DENIED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed December 21, 2006. This Office action set a three-month period for reply, with extensions of time obtainable under § 1.136(a). An amendment, made timely by an accompanying petition and fee for extension of time for response within the third month, was filed on June 25, 2007 (certificate of mailing dated June 20, 2007). No reply received and no extension obtained, the application became abandoned on December 21, 2006. A Notice of Noncompliant Amendment was mailed on September 19, 2007. A Notice of Abandonment was mailed on June 19, 2007.

In response, applicant filed this petition. The petition included payment of the petition fee and the required statement of unintentional delay. Petitioner offered a proposed reply in the form of an amendment/response and declaration and submission

of drawings previously filed on September 20, 2007. No terminal disclaimer is required. The petition meets the requirements for revival based on unintentional delay. In view thereof, the petition to revive based on unintentional delay is granted.

With the petition, petitioner requested refund of the petition fee on the basis that in response to the Notice of Non-compliant Amendment dated September 19, 2007; a Response with the requested drawings was timely filed on September 20, 2007. With respect to the request for refund, petitioner is reminded that 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

The circumstances of the abandonment of this application do not warrant withdrawal of the holding of abandonment. The application was properly held abandoned due to failure to file a proper response to the Office action. The examiner determined that the reply filed June 25, 2007 was not a bona fide attempt to advance the application to final action. So the practice set forth in 37 CFR 1.135(c) does not apply to such amendment. 37 CFR 1.135(c) authorizes, but does not require, an examiner to give the applicant a new time period to supply an omission. Here, the examiner concluded that the reply filed on June 25,

2007 was not fully responsive. The examiner further stated that applicants' submission deliberately fails to address the concerns previously made. As such, no new time period to supply the omission was set. Accordingly, by Notice of Abandonment mailed December 18, 2007, the application was held to be abandoned for failure to submit a proper within the statutory period for reply. The reply filed September 25, 2007 (certificate of mailing dated September 20, 2007) was not considered as it was filed outside of the statutory period for reply.

Technology Center AU 3676 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply (drawings) filed on September 25, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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OCT 12 2005

In re Application of	:	
William C. Borunda	:	
Serial No. 11/206,709	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO MAKE SPECIAL
For: IMPROVED GOLF CLUB HEAD	:	
HAVING INTERNAL IMPACT	:	
ASSEMBLY	:	

Applicant's petition, filed August 17, 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

Richard A. Ryan
8497 N. Millbrook Ave., Suite 110
Fresno, CA 93720

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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MAY 19 2008

In re Application of	:	
MCGAUGHY, Bruce W. et al.	:	
Application No. 11/206,714	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. **188122005100**	:	FROM RECORD
	:	

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 08, 2008.

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 26, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **WHEELOCK CHAN LLP**
2880 ZANKER ROAD
SUITE 109
SAN JOSE CA 95134

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United States Patent and Trademark Office
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OCT 0 8 2009

OFFICE OF PETITIONS

Youti Kuo
88 Foxbourne Road
Penfield NY 14526

In re Application of

Youti Kuo :

Application No. 11/206,716

: DECISION ON PETITION

Filed: August 19, 2005

:

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendement mailed September 15, 2008, which set a shortened period for reply of one (1) month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136. Accordingly, the application became abandoned on October 16, 2008. A Notice of Abandonment was mailed on August 4, 2009.

The amendment filed August 20, 2009, is noted.

The application is being forwarded to Technology Center 3700, GAU 3751 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NOV 2 8 2008

OFFICE OF PETITIONS

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

In re Application of	:	
Jeoung Kwen Noh et al	:	
Application No. 11/206,754	:	DECISION ON PETITIONS
Filed: August 19, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 29137.088.00	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed April 10, 2008 and supplemented on May 5, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and Application Data Sheet, respectively.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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 requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

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
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any 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 application is being to referred Technology Center Art Unit 2823 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/206,754	08/19/2005	2823	1000	29137.088.00	18	2

CONFIRMATION NO. 7146

CORRECTED FILING RECEIPT

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

OC000000033290514

Date Mailed: 11/24/2008

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)

Jeoung Kwen Noh, Daejeon Metropolitan City, KOREA, REPUBLIC OF;
Se Hwan Son, Daejeon Metropolitan City, KOREA, REPUBLIC OF;
Young Chul Lee, Daejeon Metropolitan City, KOREA, REPUBLIC OF;
Yun Hye Hahm, Daejeon Metropolitan City, KOREA, REPUBLIC OF;
Min Soo Kang, Daejeon Metropolitan City, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number 30827

Domestic Priority data as claimed by applicant

This application is a CIP of 10/798,584 03/10/2004
which is a DIV of 09/914,731 08/30/2001 PAT 6,720,573
which is a 371 of PCT/KR00/01537 12/27/2000

Foreign Applications

REPUBLIC OF KOREA 10-2004-0065517 08/19/2004
REPUBLIC OF KOREA 2000-82085 12/26/2000
REPUBLIC OF KOREA 1999-037746 12/31/1999

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 **US 11/206,754**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Organic light-emitting device comprising buffer layer and method for fabricating the same

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 05/24/2010

Applicant	: Hiroshi Sakoh	: DECISION ON REQUEST FOR
Patent Number	: 7659929	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,761	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 4-13-07

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/206744 Patent No.: 7142133

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 check foreign Priority Data

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

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: _____

Rehford Barne — SPE

2819 — Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

COPY MAILED

NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook	:
Application No. 11/206,805	: DECISION GRANTING PETITION
Filed: August 19, 2005	:
Attorney Docket No MCP25US	:

This is a decision on the petition filed October 13, 2005, in response to the "Notice of Omitted Items" mailed September 9, 2005, which is treated under 37 CFR 1.182.

The instant application was filed August 19, 2005 and a filing date was accorded. However, the Notice also indicated that Figure 18 as described in the specification appeared to have been omitted.

Petitioner asserts that Figure 18 was among the papers filed on August 19, 2005, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application totaled 18 sheets of drawings and bears a United States Patent and Trademark Office date-stamp of August 19, 2005. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **GRANTED.**

Given the basis for granting the petition, the petition fee in the amount of $400.00 will be refunded in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on August 19, 2005 and Figure 18 found on sheet 15/15, submitted on petition October 13, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COPY MAILED
JUL 12 2006
OFFICE OF PETITIONS

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of
Keskiniva et al.
Application No. 11/206,811
Filed: August 19, 2005
Attorney Docket No. 47121-5003

:DECISIONS 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 February 6, 2006, to accept an unintentionally delayed claim under 35 USC §§120 and 365 (c) for the benefit of prior- filed PCT application no. PCT/FI2004/000082 filed February 23, 2004.

The petition is **Dismissed As Moot** .

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on after November 29, 2000.

The instant pending nonprovisional application was filed on August 19, 2005 and was pending at the time of the filing of the instant petition. A reference pursuant to 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the application to the prior- filed application. While a reference to a prior filed application was not included in the ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) is not included in the first sentence of the specification or in the ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim of priority, no petition will be required to accept a late claim for priority.

This is because the application would have been scheduled for publication on the basis of the information submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78 (a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim of priority under 37 CFR 1.78 (a)(3).

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petition Examiner
Office of Petitions

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BUCHANAN INGERSOLL PC
(INCLUDING BURNS DOANE SWECKER & MATHIS)
PO BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED
MAY 23 2006
OFFICE OF PETITIONS

In re Application of	:	
London, et al.	:	DECISION ACCORDING STATUS
Application No. 11/206,824	:	UNDER 37 CFR 1.47(a)
Filed: August 19, 2005	:	
Attorney Docket No. 033275-463	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 10, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventor London was unable to be located.

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.

Receipt of the $200 petition fee is acknowledged.

The matter is being forwarded to Group Art Unit 2852 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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RICHARD LONDON
55 WHINFELL ROAD
NEW CASTLE UPON TYNE UK
NE20 9EW

COPY MAILED
MAY 2 3 2006
OFFICE OF PETITIONS

In re Application of :
Richard London, Peter Marx :
Application No. 11/206,824 :
Filed: August 19, 2005 :
Title: Sealing Arrangement, in : LETTER
Particular for the Blade Segments of :
Gas Turbines :

Dear Mr. London:

You are named as a joint inventor in the above-identified United States patent reissue 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

Patrick C. Keane
Buchanan Ingersoll, P.C.
PO Box 1404
Alexandria, VA 22313-1404
phone: 703-836-6620

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Alexandria, Virginia 22313-1450
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/03/2010

Applicant	: Hary Geiger	: DECISION ON REQUEST FOR
Patent Number	: 7625274	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/206,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **534** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:
Ernesto E. Blanco	:
Application No. 11/206,864	: DECISION ON PETITION
Filed: August 19, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 272706US17	:

This is a decision on the petition filed February 2, 2009, which is being treated as a petition 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 with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3773 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.

/Karen Creasy/
Karen Creasy
Petitions Examiner
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
11/206,864	08/19/2005	3773	815	272706US17	30	3

CONFIRMATION NO. 7353

CORRECTED FILING RECEIPT

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000036468584

Date Mailed: 06/15/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ernesto E. Blanco, Belmont, MA;

Assignment For Published Patent Application

Erblan Surgical Inc., Belmont, MA

Power of Attorney: The patent practitioners associated with Customer Number 22850

Domestic Priority data as claimed by applicant

This application is a CIP of 10/092,560 03/08/2002
and claims benefit of 60/608,100 09/09/2004

Foreign Applications

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 **US 11/206,864**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Surgical actuator and locking system

Preliminary Class

606

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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Teng Kuang Lee	: DECISION ON REQUEST FOR
Patent Number	: 7556196	: RECALCULATION of PATENT
Issue Date	: 07/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,873	: OF WYETH
Filed	: 08/19/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/206,878	08/19/2005	Ji-won Seo	116511-00162	7667

27557 7590 02/26/2008
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER
HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
02/26/2008	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.

Adjustment date: 02/27/2008 KPAIGE
08/22/2005 EAYALEW1 00000006 11206878
02 FC:1111 -500.00 OP

Notice of Abandonment	Application No.	Applicant(s)	
	11/206,878	SEO ET AL.	
	Examiner	Art Unit	
	Hopkins, Robert	1797	

-- 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:

/ Krystal Paige /
Office of Data Management

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Barnes & Thornburg LLP
James B. Conte
P.O. Box 2786
Chicago IL 60690-2786

COPY MAILED

AUG 1 8 2008

In re Application of	:	
Paul J. Thomas, et al.	:	
Application No. 11/206,882	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. 926512-101019	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***file responsibility was transferred to the attorneys/agents associated with Customer No. 24628***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Husch Blackwell Sanders, LLP**
Welsh & Katz
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11206885 Patent No.: 7578893

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

x**Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Formatted: Indent: Left: 1.22"

Comments: Corrections are approved to correct title and add foreign application priority data. No new matter has been presented.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Roy Von King 1793

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JJGJR.: 06-06

Paper No: __

PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER CO 80264

COPY MAILED
JUN 12 2006
OFFICE OF PETITIONS

In re Application of :
Lawrence, et al. :
Application No. 11/206,893 : ON PETITION
Filed: 17 August, 2005 :
Attorney Docket No. 023134.0106C1US :

This is a decision on the petition filed on 8 December, 2005, under 37 C.F.R. §1.47(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 17 August, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 16 September, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 8 December, 2005, Petitioner Carl A. Forest (Reg. No. 28,494) filed, *inter alia*, the instant petition, an oath/declaration signed by Robert Huffstodt, averred to be the authorized official (but with no showing other than setting forth a title) of the averred assignee (but with no showing in the form of an assignment or employment agreement) (for the assignee and on behalf of) but without that of non-signing co-inventors Gregory M. Lawrence (Mr. Lawrence) and Meredith Knight (Ms. Knight), and the statement of Elaine C. VonSpreckelsen, averred to be an assistant to Mr. Forest which statement sets forth facts that clearly show that only the oath/declaration was sent to Mr. Lawrence and Ms. Knight, and not the entire application (description, claims, abstract and drawings) as required by statute and regulation; and when the documents that were sent to Mr. Lawrence and Ms. Knight also were sent by Email, there appears to be no documentation supporting that the electronic documents were received by and were readable by Mr. Lawrence and Ms. Knight; moreover, there is no showing as to how Petitioner(s) ascertained what may reasonably be represented by Petitioner(s) to the Office as valid/current/reasonably-believed-to-be last known addresses for Mr. Lawrence and Ms. Knight.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached

should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

Petitioner is directed to the BACKGROUND section above to review the deficiencies outlined therein to be satisfied–along with copies of transmittal letters and other such documents offered in support of any averments of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. And Petitioner must state expressly this/these address(es) in the petition. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

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[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 02-07

Paper No: __

PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER CO 80264

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Lawrence, et al.	:	
Application No. 11/206,893	:	ON PETITION
Filed: 17 August, 2005	:	
Attorney Docket No. 023134.0106C1US	:	

This is a decision on the petition filed on 15 August, 2006, and supplemented on 28 February 28, 2007, under 37 C.F.R. §1.47.

For the reasons set forth below, the petition under 37 C.F.R. §1.47 is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 17 August, 2005, without, *inter alia*, a fully executed oath/declaration;
- on 16 September, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;
- on 8 December, 2005, Petitioner Carl A. Forest (Reg. No. 28,494) filed, *inter alia*, the original petition, an oath/declaration signed by Robert Huffstodt, averred to be the authorized official (but with no showing other than setting forth a title) of the averred assignee (but with no showing in the form of an assignment or employment agreement) (for the assignee and on behalf of) but without that of non-signing co-inventors Gregory M. Lawrence (Mr. Lawrence) and Meredith Knight (Ms. Knight), and the statement of

Elaine C. VonSpreckelsen, averred to be an assistant to Mr. Forest which statement sets forth facts that clearly showed that only the oath/declaration was sent to Mr. Lawrence and Ms. Knight, and not the entire application (description, claims, abstract and drawings) as required by statute and regulation; and when the documents that were sent to Mr. Lawrence and Ms. Knight also were sent by Email, there appeared to be no documentation supporting that the electronic documents were received by and were readable by Mr. Lawrence and Ms. Knight; moreover, there is no showing as to how Petitioner(s) ascertained what may reasonably be represented by Petitioner(s) to the Office as valid/current/reasonably-believed-to-be last known addresses for Mr. Lawrence and Ms. Knight–thus, the petition was dismissed on 12 June, 2006;

- the instant petition seeks to cure the previous deficiencies, and indicates, inter alia, that Ms. Knight has joined in the oath/declaration, and a copy of the transmittal to Mr. Lawrence evidences satisfaction of statutory and regulatory requirements.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

This application and its papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 02-07

Paper No: __

GREGORY M. LAWRENCE
5234 OCHS AVENUE
INDIANAPOLIS, IN 46254

COPY MAILED
MAR 0 2 2007
OFFICE OF PETITIONS

In re Application of :
Lawrence, et al. :
Application No. 11/206,893 :
Filed: 17 August, 2005 :
Attorney Docket No. 023134.0106C1US :

COMMUNICATION

Dear Gregory M. Lawrence:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER CO 80264

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Gregory M. Lawrence	: DECISION ON REQUEST FOR
Patent Number	: 7625721	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Inoue	:	
Application No. 11/206,894	:	DECISION ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. 10844-80US (P-205087)	:	

This is a decision on the petition, filed January 24, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 14, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 14, 2006.

Petitioner asserts that the Notice dated September 14, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3747 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of December 14, 2006. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Irvin Dingle
Petition Examiner
Office of Petitions

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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,426,040	:	DECISION ON REQUEST
Kim et al.	:	FOR
Issue Date: September 16, 2008	:	RECONSIDERATION OF
Application No. 11/206,900	:	PATENT TERM ADJUSTMENT
Filed: August 19, 2005	:	and
Atty Docket No. 076333-0372	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 31, 2008, 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 four hundred seventy-seven (477) 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 four hundred seventy-seven (477) 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 **four hundred seventy-seven (477)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,426,040 B2

DATED : **September 16, 2008** **DRAFT**

INVENTOR(S) : Kim 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 449 days

Delete the phrase "by 449 days" and insert – by 477 days--

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5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Blaschke, et al. :
Application No. 11/206,917 :
Filed: August 19, 2005 :
Attorney Docket No. 24302 :
For: DEVICE TO SEPARATE PARTICLES OF SOLIDS AND HIGH-DENSITY FLUIDS FROM FLUIDS OF LOWER-DENSITY

This is a decision on the petition, filed April 29, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the final Office action, mailed October 7, 2008, which set an extendable period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) or reply, the Office considered the application abandoned on January 8, 2009.

A review of the written record indicates an irregularity in the mailing of the Office action of October 7, 2008. In this regard, the Office received a proper Revocation of Power of Attorney and Change of Correspondence Address on September 26, 2008. Unfortunately, the Office did not promptly enter the requested changes. This error resulted in the October 7, 2008 final Office action being transmitted to the previous attorneys of record at the previous correspondence address of record. The Revocation of Power of Attorney and Change of Correspondence Address was not entered into Office databases until April 30, 2009.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to the Technology Center technical support staff of Art Unit 1797 for the re-mailing of the October 7, 2008 final Office action with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
KAWAHITO, TAKASHI	:	
Application No. 11/206,930	:	ON APPLICATION FOR
Filed: August 19, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. XA-10423	:	

This is in response to the "REQUEST UNDER 37 C.F.R. § 1.705(b) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed February 1, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one hundred sixty-one (161) days, not fifty-two (52) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Takashi Kawahito	:	
Application No. 11/206,930	:	DECISION GRANTING PETITION
Filed: August 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. XA-10423	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 8, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2872 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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAR 17 2008

In re Application of :
Kiyohide Satch :
Application No. 11/206,951 : ON PETITION
Filed: August 19, 2005 :
Attorney Docket No. 02355.012112.1 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 4, 2008.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed September 26, 2007. The Notice of Allowance and Issue Fee Due and the Notice of Allowability set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 27, 2007. A Notice of Abandonment was mailed on January 24, 2008.

Petitioner asserts that the Notice of Allowability mailed September 26, 2007 was never received. Petitioner states the Notice of Abandonment dated January 24, 2008 was received in the New York Office of the firm on January 30, 2008 and was received in the Washington DC office of the firm on January 31, 2008. Petitioner has provided a "Master" docket report.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due was not in fact received. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice of Allowance and Fee(s) Due may have been lost after receipt rather than a conclusion that the Notice of Allowance and Fee(s) Due was lost in the mail.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The Notice of Allowance and Fee(s) due was mailed on September 26, 2007 to the correspondence address of record (Fitzpatrick Cella, Harper & Scinto New York Firm). It appears that attorney Klock works out of Fitzpatrick, Cella, Harper & Scinto's Washington DC Office. The description of the manner in which the Notice of Abandonment was received requires further clarification of the docket system in place. If the system requires the forwarding of correspondence from the New York Office to the Washington DC Office then petitioner will have to establish that the Notice of Allowance and Notice of Allowability were not lost after receipt, as a result of forwarding the docket. Further, any renewed petition should clearly state whether the "Master" docket record provided covers both offices of Fitzpatrick, Cella Harper & Scinto.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in 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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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NEW YORK NY 10112

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In re Application of	:	
Satoh Kiyohide	:	
Application No. 11/206,951	:	DECISION ON PETITION
Filed: August 19, 2005	:	
Attorney Docket No. 02355.012115.1	:	

This is a decision on the renewed petition, filed March 31, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 26, 2007 as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 26, 2007.

Petitioner asserts that the Notice dated September 26, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2624 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of September 26, 2007. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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PROCOPIO, CORY, HARGREAVES & SAVITCH, LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
Mike Kwon, et al.	:	
Application No. 11/206,961	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. 113750-2011US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 16, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Procopio, Cory, Hargreaves & Savitch, LLP has been revoked by the assignee of the patent application on June 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: AXESSTEL, INC.
6815 FLANDERS DRIVE
SUITE 210
SAN DIEGO, CA 92121

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INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW
650 HARRY ROAD
SAN JOSE, CA 95120

Mail Date: 04/20/2010

Applicant	: Peter Jay Haas	: DECISION ON REQUEST FOR
Patent Number	: 7636735	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/206,978	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **450** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 SMALL PATENT LAW GROUP LLP
225 S MERAMEC STE 725T
ST. LOUIS MO 63105

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MAR 16 2010

In re Application of	:
Moon, et al.	:
Application No. 11/206,987	: DECISION ON PETITION
Filed: August 18, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IP-0048-US (830-0048US)	: and 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a), filed December 4, 2009, which is being treated as a petition 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 non-provisional applications and as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. 119(3) for the benefit of priority to provisional applications, all 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 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 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.

The reference to add application Nos. 10/645,689, 60/410,541, 60/405,087, 10/645,686, 60/611,676, 60/610,059, 60/602,427, 60/555,449, 60/546,435, and 60/519,932 in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference those applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (See 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 and §119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) (no additional petition fee required) 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:

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Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of Moon, et al. Application No. 11/206,987 Filed: August 18, 2005 Attorney Docket No. IP-0048-US (830-0048US)	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a), filed March 23, 2010, which is being treated as a petition 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 non-provisional applications and as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to provisional applications, all 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) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 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 of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) 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) and 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application 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 claims and determine whether the application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 1797 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 35 U.S.C. §119(e) to the non-provisional and provisional applications set forth in the Amendment, filed March 23, 2010.

for

Christopher Bottorff
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (4 pages)

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
11/206,987	08/18/2005	1797	1990	IP-0048-US (830-48US)	72	3

CONFIRMATION NO. 7313

CORRECTED FILING RECEIPT

38790
THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS, MO 63105

OC000000041385189

Date Mailed: 04/30/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John A. Moon, Wallingford, CT;
Martin A. Putnam, Cheshire, CT;
Michel Perbost, Bethany, CT;

Assignment For Published Patent Application

Illumina, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 38790

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/602,427 08/18/2004
and claims benefit of 60/611,205 09/17/2004
and claims benefit of 60/611,676 09/20/2004
and is a CIP of 10/661,234 09/12/2003 PAT 7,106,513
which is a CIP of 10/645,689 08/20/2003 ABN
which claims benefit of 60/405,087 08/20/2002
and claims benefit of 60/410,541 09/12/2002
This application 11/206,987
is a CIP of 10/661,031 09/12/2003 PAT 7,349,158
which is a CIP of 10/645,686 08/20/2003 ABN
which claims benefit of 60/405,087 08/20/2002
and claims benefit of 60/410,541 09/12/2002
This application 11/206,987
is a CIP of 10/661,082 09/12/2003 PAT 7,126,755
which is a CIP of 10/645,689 08/20/2003 ABN
which claims benefit of 60/405,087 08/20/2002
and claims benefit of 60/410,541 09/12/2002

and said 10/661,082 09/12/2003
is a CIP of 10/645,686 08/20/2003 ABN
which claims benefit of 60/405,087 08/20/2002
and claims benefit of 60/410,541 09/12/2002
This application 11/206,987
is a CIP of 10/661,254 09/12/2003 PAT 7,190,522
which is a CIP of 10/645,689 08/20/2003 ABN
which claims benefit of 60/405,087 08/20/2002
and claims benefit of 60/410,541 09/12/2002
and said 10/661,254 09/12/2003
is a CIP of 10/645,686 08/20/2003 ABN
which claims benefit of 60/405,087 08/20/2002
and claims benefit of 60/410,541 09/12/2002
This application 11/206,987
is a CIP of 10/990,057 11/15/2004
which claims benefit of 60/519,932 11/14/2003
and claims benefit of 60/546,435 02/19/2004
and claims benefit of 60/555,449 03/22/2004
and claims benefit of 60/602,427 08/18/2004
and claims benefit of 60/610,059 09/13/2004
and claims benefit of 60/611,676 09/20/2004
and is a CIP of 10/661,234 09/12/2003 PAT 7,106,513
which is a CIP of 10/645,689 08/20/2003 ABN
and claims benefit of 60/410,541 09/12/2002
and said 10/645,689 08/20/2003
claims benefit of 60/405,087 08/20/2002

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 **US 11/206,987**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****
Title

Diffraction grating-based encoded element having a substance disposed thereon

Preliminary Class

436

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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HUNTON & WILLIAMS, LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W. - SUITE 1200
WASHINGTON, DC 20006-1109

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Gijsbert Dideric Dolman, et. al.	:	
Application No. 11/206,998	:	DECISION ON PETITION
Filed: August 19, 2005	:	
Attorney Docket No. 66857.000039	:	

This is a decision on the petition filed November 14, 2005, requesting that the above-identified application a filing date of August 19, 2005.

The application was filed on August 19, 2005. However, on September 12, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings. Additionally, the Notice required submission of an executed Oath or Declaration and a substitute Specification.

In reply, petitioner filed the instant petition along with an executed Declaration and Power of Attorney, a Specification, and four (4) sheets of drawings containing Figures 1a-3. Petitioner asserts that the application as deposited with the USPTO was complete with four sheets of drawings (Figures 1a-1b and 2-3), and is entitled to a filing date of August 19, 2005. In support, petitioner submits a copy of an Office date-stamped postcard receipt, which shows that the application was deposited on August 19, 2005, with four sheets of drawings (Figures 1a-1b and 2-3), among other items.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. The evidence is convincing that the application as filed on August 19, 2005 included four sheets of drawings (Figures 1a-1b and 2-3) and thus, is entitled to a filing date of August 19, 2005.

Since a review of the record reveals that four sheets of drawings (Figures 1a-3) were in fact present in the application, the Notice mailed September 12, 2005 is hereby **VACATED** and petition is **GRANTED**. Thus, the petition fee of $400 is being credited to petitioner's deposit account.

This application file is being referred to OIPE for further **processing with a filing date of August 19, 2005**.

Telephone inquiries concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Brian Hearn
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Valery M. Dubin, et al.	:	
Application No. 11/207, 000	:	DECISION ON PETITION
Filed: August 19, 2005	:	TO WITHDRAW
Attorney Docket No. 070702000300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peter J. Davis on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There 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: VALERY M. DUBIN
5388 NW LIANNA WAY
PORTLAND, OR 97007

cc: RAJ S. DAVE', PHD
DARBY & DARBY, PC
1500 K STREET, NW
SUITE 250
WASHINGTON, DC 20005-1714

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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
11/207,000	08/19/2005	Valery M. Dubin	070702000300

CONFIRMATION NO. 6755

OC000000025446967

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/02/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/207,022	08/19/2005	Teruhiko Sasaki	277091US6	6900

22850 7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/207,022	08/19/2005	Teruhiko Sasaki	277091US6	6900

7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/24/2008 0030049644

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1007

FORM PET651G (Rev. 08/07)

Notice of Abandonment	Application No.	Applicant(s)	
	11/207,022	SASAKI ET AL.	
	Examiner	Art Unit	
	Tran, Thai	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Rick Clemons/ ☐☐Administrative Assistant☐☐Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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USDA, ARS, OTT
5601 SUNNYSIDE AVE.
RM 4-1159
BELTSVILLE MD 20705-5131

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of
Agnes M. Rimando et al
Application No. 11/207,038
Filed: August 18, 2005
Attorney Docket No. 0162.04

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 3, 2009, 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 1655 for appropriate action by the Examiner in the normal course of business on the reply received February 1, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/207,043	08/18/2005	Lalitha Venkataramanan	26.0290 US CIP	7020

37003 7590 06/07/2007
SCHLUMBERGER-DOLL RESEARCH
ATTN: INTELLECTUAL PROPERTY LAW DEPARTMENT
P.O. BOX 425045
CAMBRIDGE, MA 02142

EXAMINER
MCELHENY JR, DONALD E

ART UNIT	PAPER NUMBER
2857	

MAIL DATE	DELIVERY MODE
06/07/2007	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

Commissioner for Patents
United States Patent and Trademark Office
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In re VENKATARAMANAN ET AL.
Appl No.: 11/207,043
Filed: August 18, 2005
For: **SYSTEM AND METHODS OF DERIVING DIFFERENTIAL FLUID PROPERTIES OF DOWNHOLE FLUIDS**

DECISION ON PETITION
37 CFR 1.84

JUN - 7 2007

The following is a decision on the April 3, 2007 "PETITION TO ACCEPT COLOR DRAWINGS UNDER § 1.84(a)(2)."

The petition is Granted.

The text of the pertinent section of 37 CFR 1.84 is here reproduced:

37 CFR 1.84. (a) (2) Color. On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings;
(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color.
Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Applicant's submission of color drawings labeled 6A, 6B, 7, 8A, 8B, 9, 10, 11, 12, 13, 14A, 14B, 15, 16, 17A, 17B, 18 and 19 has been retained in an artifact folder and upon review of these figures the following comment is made. Petitioner has met all requirements under§ 1.84(a)(2).

John E. Barlow
Supervisory Patent Examiner
Art Unit 2863
Technology Center 2800

SCHLUMBERGER-DOLL RESEARCH
ATTN: INTELLECTUAL PROPERTY LAW DEPARTMENT
P.O. BOX 425045
CAMBRIDGE, MA 02142

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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET, 14TH FLOOR
IRVINE, CA 92614

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
FUNAHASHI, et al.	:	
Application No. 11/207,054	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. SAEG129.013AUS	:	FROM RECORD
	:	

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 15, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to KNOBBE MARTENS OLSON & BEAR, LLP has been revoked by the assignee of the patent application on July 31, 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: WESTERMAN HATTORI DANIEL & ADRIAN, LLP
1250 CONNECTICUT AVENUE NW, SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,582,772	: DECISION ON REQUEST
Michalak et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/207,072	: PATENT TERM ADJUSTMENT
Filed: August 18, 2005	: and
Atty Docket No. 16156-085001/	: NOTICE OF INTENT TO ISSUE
AM101599	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 27, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy-nine (879)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,772 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Michalak, 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 500 days

Delete the phrase "by 500 days" and insert – by 879 days--

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW LLP
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO CA 94111

In re Application :
Thomas R. Cech et al. :
Application No. 11/207,078 : DECISION ON APPLICATION
Filed: August 17, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **015389-002621US** :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed June 5, 2009. Applicant requests that the determination of patent term adjustment be corrected from 244 days to 689 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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]

On August 29, 2008 applicants filed a response to the non-final Office action mailed June 6, 2008. Then on September 10, 2008, applicants filed a Supplemental Response. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

Applicants argue that the correct period of adjustment for the Supplemental Information Disclosure Statement filed September 10, 2008 is 12 days, not 0 days as determined by the office. The Supplemental Information Disclosure Statement was received by the Patent Office on September 10, 2008, 12 days after the receipt of the response to a Non-Final Office Action. Applicants are correct that the Patent Term Adjustment should be reduced by an additional 12 days of applicants' delay, in accordance with 37 CFR 1.704(c)(8) for the filing of a Supplemental Information Disclosure Statement on September 10, 2008.

Applicants further argue that the correct period of adjustment for the Terminal Disclaimer filed December 17, 2008 is 0 days, not 110 days as determined by the office as Applicants representatives responded to a request for a terminal disclaimer at the request of the examiner and thus no loss of PTA should have occurred.

Applicant's arguments have been considered, but not found to be persuasive. Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the

---

[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.

period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

The record does not support a conclusion that the Terminal Disclaimer was requested by the examiner. Accordingly, the filing of the Terminal Disclaimer as a supplemental response on December 17, 2008 may be considered a failure to engage and a proper basis for reduction.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 724 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred thirty-two **(232)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

PALM INTRANET

Day : Friday
Date: 6/4/2010
Time: 11:17:41

PTA Calculations for Application: 11/207078			
Application Filing Date:	08/17/2005	PTO Delay (PTO):	416
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	172
Post-Issue Petitions:	0	Total PTA (days):	232
PTO Delay Adjustment:	-12		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	06/04/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		12	
65	03/06/2009	MAIL NOTICE OF ALLOWANCE	67		36
64	02/10/2009	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
63	02/19/2009	ISSUE REVISION COMPLETED			
62	02/19/2009	DOCUMENT VERIFICATION			
61	02/19/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	02/13/2009	NOTICE OF ALLOWABILITY			
59	02/12/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
55	12/17/2008	TERMINAL DISCLAIMER FILED		110	36
54	12/22/2008	PARALEGAL TD ACCEPTED			
53	12/17/2008	DATE FORWARDED TO EXAMINER			
52	12/11/2008	SUPPLEMENTAL RESPONSE			
51	12/15/2008	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
49	12/01/2008	DATE FORWARDED TO EXAMINER			
48	11/07/2008	SUPPLEMENTAL RESPONSE			
47	09/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	08/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	11/24/2008	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
42	11/17/2008	PARALEGAL TD ACCEPTED			
41	10/01/2008	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
40	09/10/2008	REFERENCE CAPTURE ON IDS			

39	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/29/2008	TERMINAL DISCLAIMER FILED			
37	09/26/2008	DATE FORWARDED TO EXAMINER			
36	08/29/2008	RESPONSE AFTER NON-FINAL ACTION			
35	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	08/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	08/20/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	08/12/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
30	06/06/2008	MAIL NON-FINAL REJECTION			
29	06/06/2008	NON-FINAL REJECTION			
25	04/01/2008	CASE DOCKETED TO EXAMINER IN GAU			
24	03/25/2008	DATE FORWARDED TO EXAMINER			
23	03/03/2008	RESPONSE TO ELECTION / RESTRICTION FILED		62	21
22	03/03/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/01/2007	MAIL RESTRICTION REQUIREMENT	349		-1
20	09/27/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
19	08/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	05/03/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	05/09/2006	PRELIMINARY AMENDMENT			
16	12/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	12/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	10/20/2005	PRELIMINARY AMENDMENT			
13	08/17/2005	REFERENCE CAPTURE ON IDS			
12.7	08/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	08/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	11/14/2005	APPLICATION DISPATCHED FROM OIPE			
10	11/14/2005	APPLICATION IS NOW COMPLETE			
9	10/20/2005	ADDITIONAL APPLICATION FILING FEES			
		A SET OF SYMBOLS AND PROCEDURES,			

8	10/20/2005	PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
7	11/04/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	09/17/2005	CLEARED BY L&R (LARS)			
4	09/02/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/02/2005	CASE CLASSIFIED BY OIPE			
2	08/27/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/17/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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OFFICE OF PETITIONS

Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of
Johnson
Application No. 11/207,080
Filed: August 18, 2005
Attorney Docket No.: 18962-0203001 P5959USD11
Title: SYSTEM AND METHOD FOR ANONYMOUS LOCATION BASED SERVICES

DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on August 27, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

The deficiency payment will be deducted from Deposit Account No. 06-1050 is due course.

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.

The Technology Center will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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LILLING & LILLING, P.C.
P.O. BOX 560
GOLDENS BRIDGE, NY 10526

COPY MAILED

MAR 1 3 2009

OFFICE OF PETITIONS

In re Application of
Amram **AIZENFELD, et al.**
Application No. 11/207,092
Filed: August 18, 2005
Attorney Docket No. **S1115U**

DECISION ON PETITION TO WITHDRAW FROM RECORD UNDER 37 CFR 1.136(b)

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 3, 2008.

The request is **APPROVED**.

A review of the file record indicates that Bruce E. Lilling of **LILLING & LILLING, P.C.**: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Bruce E. Lilling of **LILLING & LILLING, P.C.** 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).

All communications from the Office will continue to be directed to the address below until otherwise properly notified by the 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 NATH LAW GROUP**
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sean Liam Kelleher
Kelleher, IP PLLC
16 Peckslip Road
Carmel, NY 10512

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OFFICE OF PETITIONS

In re Application of
Avi Levy et al.
Application No. 11/207,093
Filed: August 18, 2005
Attorney Docket No. 415/23

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 3, 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 Bruce E. Lilling on behalf of all attorneys/agents associated with customer number 24101. All attorneys/agents associated with customer number 24101 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence has been changed due to recent filing of a change of correspondence address.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bruce E. Lilling
Lilling & Lilling, PLLC
P.O. Box 560
Golden Bridge, NY 10526

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MARY AM IMAM
95 SOUTH MARKET STREET
SUITE 570
SAN JOSE, CA 95113

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DEC 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph Wai-Ming PANG	:	
Application No. 11/207,111	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. VLI-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 May 29, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above at items 1 and 3 have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: VLI, INC.
530 LAKESIDE DRIVE,
SUITE 120
SUNNYVALE, CA 94086

cc: MARYAM IMAM
LAW OFFICES OF IMAM,
111 N. MARKET STREET,
SUITE 1010
SAN JOSE, CA 95113

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SUITE 1010
SAN JOSE, CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Joseph Wai-Ming PANG	:	
Application No. 11/207,111	:	DECISION ON PETITION
Filed: August 17, 2005	:	TO WITHDRAW
Attorney Docket No. VLI-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 January 9, 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 Maryam Imam on behalf of the attorneys of record associated with Customer No. 22728.

The attorneys of record associated with Customer No. 22728 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the 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: JOSEPH WAI-MING PANG
1897 GRANT PARK LANE,
LOS ALTOS, CA 94024

cc: VLI, INC.
530 LAKESIDE DRIVE
SUITE 120
SUNNYVALE, CA 94086

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of :
Elena Feinstein, et al. :
Application No.: 11/207,119 : ON PETITION
Filed: August 16, 2005 :
Attorney Docket No.: 72958-A/JPW/JW :

This is a decision on the petition, filed April 9, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 25, 2010, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated February 22, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1633 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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1660 LINCOLN ST
SUITE 2050
DENVER CO 80264

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of	:
Lawrence	:
Application No. 11/207,121	: UNDER 37 CFR 1.47(b)
Filed: August 17, 2005	:
Atty. Dkt. No.: 023134.0106C2US	:
For: BODILY FLUID ANALYSIS	:
SYSTEM	:

This decision is in response to the petition under 37 CFR 1.47(b), filed December 8, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 17, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed September 7, 2005. The Notice required an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition fails to satisfy lacks requirements (1) and (5) set forth above.

As to item (1), petitioner has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor or the legal representative of the non-signing inventor. A copy of the application papers should be sent to the last known address of the nonsigning inventor or to the address of the non-signing inventor's attorney. See, MPEP 409.03(d). Any renewed petition must be accompanied by evidence that the inventor, after having been presented with the complete application papers, thereafter refused to execute the oath or declaration.

A copy of a letter accompanying the petition indicates that a copy of the application papers were sent to the inventor at an address not known to be the inventor's last known address. Further, a copy of a letter sent to the inventor at what is alleged to be the inventor's last known address does not indicate that a complete copy of the application papers was included with the letter. Accordingly, petitioner has failed to establish that the inventor received a copy of the complete application papers at his last known address and thereafter refused requests to execute the declaration.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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MAY 12 2006

OFFICE OF PETITIONS

PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER CO 80264

In re Application of	:
Lawrence	:
Application No. 11/207,121	: DECISION GRANTING STATUS
Filed: August 17, 2005	: UNDER 37 CFR 1.47(b)
Atty. Dkt. No.: 023134.0106C2US	:
For: BODILY FLUID ANALYSIS	:
SYSTEM	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed April 7, 2006.

The petition is **GRANTED**.

Petitioner has shown that Inventor Lawrence has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. Gregory M. Lawrence
5234 Ochs Avenue
Indianapolis, IN 46254

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Lawrence	:	
Application No. 11/207,121	:	LETTER
Filed: August 17, 2005	:	
Atty. Dkt. No.: 023134.0106C2US	:	
For: BODILY FLUID ANALYSIS	:	
SYSTEM	:	

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS MN 55402-3901

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NOV 01 2006

OFFICE OF PETITIONS

In re Application of	:
Roy W. Mattson, Jr. et al	:
Application No. 11/207,140	: DECISION GRANTING PETITION
Filed: August 18, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. IRM449H	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability of December 30, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Publishing Division and for review of the drawings submitted on June 29, 2006.

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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2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS MN 55402-3901

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OFFICE OF PETITIONS

In re Application of Roy W. Mattson Jr., et al Application No. 11/207,140 Filed: August 18, 2005 Attorney Docket No. IRM449H	:	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 22, 2006.

The petition 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 reason 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 a matter pending before the Office unless such request or such withdrawal is" for one of the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, do not meet any of the conditions set forth in 37 CFR 10.40.

All communications from the Office will continue to be directed to the above address of record until otherwise properly notified by applicant/assignee.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ROY W. MATTSON, JR. AND PAULETTE C. OGDEN
1732 SPENCER STREET
LONGMONT CO 80501

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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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of
Johnson et al.
Application No. 11/207,142
Filed: August 17, 2005
Attorney Docket No. 10271-172-999
Title of Invention: Crystals and Structure of Synagis Fab

DECISION DISMISSING PETITION

This is a decision on the "Petition Under 37 CFR 1.182" filed November 7, 2005, requesting that omitted page 46 (Table 2) of the specification be entered and accorded a filing date of August 17, 2005.

The petition is dismissed.

The application was filed on August 17, 2005. However, on September 7, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of August 17, 2005 but page 46 of the specification appeared to have been omitted.

In response, the present petition was filed. The petition is accompanied by a substitute specification which includes page 46 (Table 2) of the specification (description and claims).

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1)promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with

the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing pages were actually deposited in the PTO on August 17, 2005, with the other application papers nor request a later filing date.

Instead, applicants seek to add the page of the specification to the present application on the basis that the page is not new matter. However, no petition is necessary for that purpose. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP 608.02(a).

Petitioner may submit page 46 (Table 2) of the specification in the form of an Amendment. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. MPEP 201.06 (c) states that:

> ... an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Pages 46 (Table 2) of the specification will not be new matter if it is part of the disclosure of prior application no. 10/135,636 from which the present application incorporates by reference. As set forth in MPEP 201.06 (c)the incorporation by reference of a prior application permits an applicant to amend the application without the need for a petition. Accordingly, applicant may file an Amendment requesting the entry of page 46 (Table 2) as a new page of specification.

Page 46 (Table 2) of the specification submitted on November 7, 2005 will <u>not</u> be entered.

Deposit account 50-3013 will be charged the $400.00 petition fee. The $400.00 petition fee will not be refunded because it was not necessitated by Office error.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 17, 2005.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-12-08

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/207147 Patent No.: 7255777

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Carrie Yaw
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Glenn Caldarola
Supervisor, Patent Examiner
Technology Center 1700

SPE — Art Unit 1797

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

BURNS & LEVINSON LLP
1030 FIFTEENTH STREET NW, SUITE 300
WASHINGTON, DC 20005-1501

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
SIMON, et al.	:	
Application No. 11/207,156	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. 26918.2.2	:	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 December 21, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BURNS & LEVINSON LLP has been revoked by the assignee of the patent application on May 15, 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: **CLEMENTS WALKER**
1901 ROXBOROUGH ROAD, SUITE 300
CHARLOTTE NC 28211

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

CLEMENTS BERNARD MILLER
1901 ROXBOROUGH ROAD, SUITE 300
CHARLOTTE, NC 28211

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of
SIMON, et al.
Application No. 11/207,156
Filed: August 18, 005
Attorney Docket No. **26918.2.2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Lawrence A. Baratta, Jr. on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WIFIMED, INC.**
2000 RIVEREDGE PARKWAY, SUITE GL100A
ATLANTA, GA 30328

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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INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND, OH 45140

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Wayne Harry Kuhn et al	:	DECISION DISMISSING
Application No. 11/207,167	:	PETITION
Filed: August 18, 2005	:	
Attorney Docket No. IPK-030289-US	:	

This is a decision on the petition under 37 CFR 1.181, filed November 7, 2005, and resubmitted on November 17, 2005, which is being treated under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of August 19, 2005, rather than the presently accorded filing date of August 18, 2005.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 19, 2005, pursuant to the requirements of 37 CFR 1.10. In support, the petition is accompanied by a copy of Express Mail receipt No. ED948649324US showing a "date-in" of August 18, 2005.

37 CFR 1.10(a) states that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u> If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a). (Emphasis supplied)

37 CFR 1.10(d) 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.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "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." Evidence from the USPS may be the Express Mail Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be in the form of a log book which contains information such as the Express Mail number; attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The present request is not accompanied by the evidence required by 37 CFR 1.10(d). Accordingly, the petition is dismissed

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 fax: (571) 273-8300

This matter is being referred to the Office of Initial Patent Examination for preexamination processing with the current filing date of August 18, 2005..

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks
Lead 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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MAR 29 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent of Hetzler et al.	:	DECISION ON REQUEST
Patent No. 7,571,497	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/207,183	:	AND NOTICE OF INTENT TO
Filing Date: August 19, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 00635-0267001	:	CORRECTION

This is a decision on the petition filed October 9, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the above-identified patent is extended or adjusted by nine hundred ninety-nine (999) days

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by nine hundred ninety-nine (999) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating the term of the patent is extended or adjusted by **nine hundred ninety-nine (999)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,571,497 B2
ISSUE DATE	:	August 11, 2009
INVENTOR(S)	:	Hetzler et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 692 days.

Delete the phrase "by 692 days" and insert - by 999 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Law Office of Scott C Harris Inc
PO Box 1389
Rancho Santa Fe CA 92067

MAILED

MAR 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Panayiotis Adamos Michael	:	
Application No 11/207188	:	DECISION
Filing or 371(c) Date: 08/17/2005	:	ON PETITION
Title of Invention:	:	
CONTEXT SENSITIVE STREAMING	:	
SYSTEM APPLICATIONS	:	

This is a decision on the "Request for Withdrawal of Abandonment," filed February 4, 2009. The Request is properly treated as a petition under 37 CFR 1.181(a). Accord MPEP 711.03(c).

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 14, 2008. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on October 15, 2008. A Notice of Abandonment was mailed February 4, 2009.

The present petition

Applicant files the present petition and asserts that a timely response to the Office action was filed via facsimile on September 24, 2008. In support of this assertion, Applicant provides that he personally recalls sending the document by fax to this Office, and Applicant certifies that he reported the filing to his client by email on November 24, 2008. Applicant also files a copy of the reply.

A review of the reply reveals that the reply does not contain a certificate of facsimile transmission in accordance with 37 CFR 1.8. Nor does applicant provide a copy of a return receipt postcard acknowledging receipt by this Office of the reply in accordance with the MPEP 503.

Applicant is advised that the USPTO file is the official record of the papers actually received or filed. In this instance, the application file does not contain a copy of the reply.

Office records

A review of application serial number 12/207,188 reveals that the reply filed by applicant on November 24, 2008, incorrectly included serial number 12/207,188, instead of the correct application serial number, 11/207,188.

A further review of the response filed in application 12/207,188 on November 24, 2008 reveals that the correct inventor; application filing date; title of invention; Art Unit and Examiner were included on the reply.

Conclusion

In view of the above, it is apparent that the reply to the Office action was filed in this Office on November 24, 2008, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

The reply has been removed from 12/207,188, and placed in application serial number 11/207,188. Applicant's deposit account has been charged the fee for a one (1) month extension of time.

Accordingly, the holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3622 for continued examination in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON AND FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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SEP 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Ulrich KASBERGER, et al	:	
Application No. 11/207,196	:	DECISION ON PETITION
Filed: August 19, 2005	:	TO WITHDRAW
Attorney Docket No. 543822017100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison and Foerster, LLP has been revoked by the applicant of the patent application on June 12, 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: SLATER & MATSIL L.L.P.
17950 ROAD, SUITE 1000
DALLAS, TX 75252

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United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of
Arndt GRUBER, et al
Application No. 11/207,197
Filed: August 19, 2005
Attorney Docket No. 543822016800

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ARNDT GRUBER
FOHANN-CLANZE-STR. 112
81369 MUCHEN
GERMANY

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/207,197	08/19/2005	Arndt Gruber	543822016800

CONFIRMATION NO. 6097

OC000000025468145

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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KEVIN FARRELL
PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
PORTSMOUTH NH 03801

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MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of	:
Cech et al.	:
Application No. 11/207,205	: DECISION GRANTING PETITION
Filed: August 18, 2005	: UNDER 37 CFR 1.55(c)
Attorney Docket No. 19361-4956	:

This is a decision on the petition under 37 CFR 1.55(c), filed August 18, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign German Application Nos. 100 36 890.5, filed July 28, 2000 and 200 15 602.0, filed September 8, 2000.

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 Commissioner 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 instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, 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).

The intermediate nonprovisional application was filed on July 24, 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 August 18, 2005, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

A filing receipt accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2833 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

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	DRAWINGS	TOT CLMS	IND CLMS
11/207,208	08/16/2005	2631	1400	16648US01	10	28	3

CONFIRMATION NO. 6516

CORRECTED FILING RECEIPT

OC000000017345810

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 10/27/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Karapet Khanoyan, Lake Forest, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/207,208

Projected Publication Date: 02/22/2007

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for a digital frequency divider

Preliminary Class

375

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,579,043 :
Oh :
Issue Date: August 25, 2009 :
Application No. 11/207,241 : DECISION ON REQUEST FOR
Filed: August 18, 2005 : RECONSIDERATION OF
Attorney Dkt. No. 10125-4197 : PATENT TERM ADJUSTMENT
Title: METHOD OF MANUFACTURING :
SUBSTRATE FOR LIQUID CRYSTAL :
DISPLAY DEVICE :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred fifty-nine (559) days to seven hundred eighty-four (784) days. This petition is properly treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 25, 2009, the above-identified application matured into US Patent No. 7,579,043 with a patent term adjustment of 559 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 23-1925. No additional fees are required.

Patentee requests recalculation of the patent term adjustment. Patentee maintains that the application is entitled to an additional 225 days due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b). Thus, patentee requests that the determination of patent term adjustment be increased to a total of seven hundred eighty-four (784) days (the sum of the period

of three-year delay (225 days) and the period of examination delay (559 days)).

The Office finds that as of March 30, 2009, the day before the filing of the request for continued examination (RCE) on March 31, 2009, the application was pending three years and 224 days after its filing date (August 19, 2008 to March 30, 2009). At the time of filing of the RCE on March 31, 2009, a period of adjustment of 559 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1). At issue is whether patentee should accrue an additional 224 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 559 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 224-day period of delay in issuance of the patent overlaps with the period of 559 days of examination delay. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 18, 2005 until March 30, 2009, the day before the filing of the RCE on March 31, 2009. 559 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within specified time frames during the pendency of the application. All of the 224 days for Office delay in issuing the patent overlap with the 559 days of Office delay accrued prior to submission of the RCE. Entry of both 224 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 559 days pursuant to 37 CFR §1.702(a)(1) for Office examination delay is neither permitted nor warranted.

The Office did not delay 559 days and then another 224 days. As of the filing of the RCE on March 31, 2009, the greater period, 559 days, is the actual number of days issuance of the patent was delayed by the Office.

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, having considered the 559 days of examination delay under 37 CFR 1.702(a)(1).

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Tae Young Oh	: DECISION ON REQUEST FOR
Patent Number	: 7579043	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,241	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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ADAM K. SACHAROFF
MUCH SHELIST DENENBERG AMENT & RUBENSTEIN
191 N. WACKER DRIVE, SUITE 1800
CHICAGO IL 60606-1615

MAILED

MAR 31 2010

OFFICE OF PETITIONS

In re Application of	:	
Rehkemper et al.	:	
Application No. 11/207,244	:	DECISION GRANTING PETITION
Filed: August 19, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 4004013.0115	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 20, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/625,425, filed November 5, 2004, as set forth in the 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 No. 60/625,425 filed on November 5, 2004 , as required by 37 1.78(a)(5)(iii).

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 Joan Olszewski at (571) 272-7751. 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 Art Unit 3714 for appropriate action on the amendment submitted January 20, 2010, including consideration by the examiner 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/
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
11/207,244	08/19/2005	3714	1000	4004013.0115	18	3

CONFIRMATION NO. 8270

CORRECTED FILING RECEIPT

34755
ADAM K. SACHAROFF
MUCH SHELIST DENENBERG AMENT & RUBENSTEIN
191 N. WACKER DRIVE, Suite 1800
CHICAGO, IL 60606-1615

OC000000040872847

Date Mailed: 03/31/2010

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)

Steven Rehkemper, Chicago, IL;
Jeffrey Rehkemper, Chicago, IL;
Dennis O'Patka, Chicago, IL;
Jackson Wilson, Evanston, IL;
Michael Kass, Willowbrook, IL;

Assignment For Published Patent Application

REHCO LLC, Chicago, IL

Power of Attorney: The patent practitioners associated with Customer Number 34755

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/625,425 11/05/2004

Foreign Applications

If Required, Foreign Filing License Granted: 09/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/207,244**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Interactive toy and areas designated therefor

Preliminary Class

446

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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Marina Brockway	: DECISION ON REQUEST FOR
Patent Number	: 7668594	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/207,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **780** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/10/2010

Applicant	: David Lawrence Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7653036	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/207,262	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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VISTA IP LAW GROUP, LLP
1885 LUNDY AVENUE
SUITE 108
SAN JOSE, CA 95131

MAILED

AUG 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Frankie E. Gennari, et al.	:	
Application No. 11/207,266	:	DECISION GRANTING PETITION
Filed: August 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07PA088US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 9, 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 2825 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

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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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VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/26/2010

Applicant	: Frank E. Gennari	: DECISION ON REQUEST FOR
Patent Number	: 7653892	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RYAN, MASON & LEWIS LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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OCT 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Clifford Neil Didcock et al	:	
Application No. 11/207,295	:	ON PETITION
Filed: August 19, 2005	:	
Attorney Docket No. 504045-A-11-US	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 9, 2006.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Clifford Neil Didcock, has refused to join in the filing of the above-identified application, which is demonstrated by his conduct in not replying to the requests made to him to execute the application papers.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to Technology Center AU 2614 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Clifford Neil Didcock
1720 West Beaver Lake Drive SE
Sammamish, WA 98075

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OCT 17 2006

OFFICE OF PETITIONS

In re Application of
Clifford Neil Didcock, Michael Geoffrey Andrew Wilson and Paul Arnold
Application No. 11/207,295
Filed: August 19, 2005
For: MESSAGING SYSTEM

Dear Mr. Didcock:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3218. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Ryan, Mason & Lewis LLP
90 Forest Avenue
Locust Valley, NY 11560

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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APR 2 8 2010

OFFICE OF PETITIONS

In re Application of Shigeru Ozawa, et al. Application No. 11/207,313 Filed: August 19, 2005 Attorney Docket No. 500615.20272	: : : : :	DECISION ON PETITION

This is a decision on the petition, filed December 21, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 23, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 23, 2008.

Petitioner asserts that the Notice dated September 23, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of September 23, 2008. In this regard, the Office action in question was mailed to the wrong address. Office records indicate that there was a power of attorney and request to change of address filed November 1, 2005 and a Customer Number request was filed May 5, 2008 were never processed. The request indicated that the new correspondence address should be mailed to Eugene LeDonne, Esq., Reed Smith, LLP at 599 Lexington Avenue 29th Floor, New York, NY 10022 by way of Customer Number 26418. Accordingly, as the Office action and the Notice of Abandonment were both mailed to the wrong address, the Notice of Abandonment mailed January 16, 2009 is hereby **vacated** and **the holding of abandonment withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to the Technology Center AU 3753hnical support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due of September 23, 2008. The period for paying the issue and publication fees will be reset to expire three (3)

months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Carter, DeLuca, Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville NY 11747

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger Talish	:	
Application No. 11/207,335	:	DECISION ON PETITION
Filed: August 18, 2005	:	
Attorney Docket No. 1429-5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 29, 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 May 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3771 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Tyco Healthcare Group LP
60 Middletown Avenue
North Haven, CT 06473

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger Talish	:	
Application No. 11/207,335	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. 1429-5	:	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 March 12, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Tyco Healthcare Group LP does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Carter, DeLuca, Farrell & Schmidt, LLP**
Suite 225
445 Broad Hollow Road
Melville, NY 11747

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SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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AUG 1 8 2008

In re Application of	:	
SCHUBA, Christoph L. et al.	:	
Application No. 11/207,341	:	DECISION ON PETITION
Filed: August 19, 2005	:	TO WITHDRAW
Attorney Docket No. **SUN05-0737**	:	FROM RECORD
	:	

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 25, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Darby and Darby P.C. has been revoked by the assignee of the patent application on May 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PVF -- SUN MICROSYSTEMS INC.**
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Christoph L. Schuba	: DECISION ON REQUEST FOR
Patent Number	: 7647637	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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O2MICRO INC
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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FEB 26 2008

OFFICE OF PETITIONS

In re Application of	:	
FANG et al.	:	
Application No. 11/207,355	:	ON PETITION
Filed: 08/18/05	:	
Attorney Docket No. O2-0227	:	

This is a decision on the petition under 37 CFR 1.137(a), filed December 26, 2007, to revive the above-identified application.

The petition is **GRANTED.**

On March 22, 2007, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely response, the Office mailed a Notice of Abandonment on October 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment and replacement drawings; (2) the petition fee of $510.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The Office notes that applicants indicated an incorrect application, No. 11/207,335, instead of the intended application, No. 11/207,355, in the header of the present petition, the reply, and on the postcard receipt.

This application is being referred to Technology Center AU 2819 for appropriate action on the reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Laura N. Tunnell
P.O. Box 6003
Santa Barbara, CA 93160

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JAN 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Barbara Evans	:	
Application No. 11/207,372	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO WITHDRAW
Attorney Docket No. 05EVA1	:	FROM RECORD

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, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Barbara G. Evans**
2 Alameda Padre Serra
Santa Barbara, CA 93103

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

COPY MAILED
JAN 16 2009
OFFICE OF PETITIONS

J. Michael Neary
Neary Law Office
53939 Pine Grove Road
La Pine OR 97739

In re Application of	:	
Christopher W. Gabrys	:	
Application No. 11/207,375	:	DECISION ON
Filed: August 18, 2005	:	PETITION PURSUANT TO
Attorney Docket No.: RM2274US	:	37 C.F.R. § 1.181(A)
Title: OPTIMIZED AIR CORE	:	
ARMATURE	:	

This is a decision on the petition filed December 8, 2008, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed June 2, 2008, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting publication fees.[2] Accordingly, the above-identified application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on December 5, 2008.

1 The issue fee was received on June 17, 2008.
2 See 37 C.F.R. § 1.211(e).

RELEVANT PORTIONS OF THE C.F.R.

35 U.S.C. § 133 sets forth, *in toto*:

> 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 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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 (emphasis added). The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

This application was filed on August 18, 2005. A nonpublication request was present on filing, and this request was not effectuated, as it is defective. This point will be further developed on pages three through four of this decision.

On March 23, 2006, Petitioner filed a "Request for correction of filing receipt data and withdrawal of publication" in response to the official filing receipt and the notice of publication. In this submission, Petitioner indicated that a nonpublication request was present on filing, and requested "a letter [to] be issued waiving the requirement for any publication fee."

In response to the notice of June 2, 2008, Petitioner submitted both the issue fee and a copy of the communication of March 23, 2006, but did not include the required publication fee.[3]

With this petition, Petitioner has asserted that the publication fee requirement contained in the notice of June 2, 2008 was made in error, due to the presence of the non-publication request that was present on filing.[4]

Petitioner's contention regarding the propriety of the requirement for the publication fee is not well taken. **The propriety of a requirement set forth in an Office communication is not relevant to an applicant's burden to timely prosecute the application to avoid abandonment.**[5]

Put another way, this application went abandoned due to Petitioner's failure to respond to the notice of June 2, 2008, and the propriety of a requirement set forth therein is not relevant to the abandonment of this application.

If Applicant believed that the requirement for the publication fee had been made in error, the proper course of action would have been to submit the required publication fee (so as to comply with the requirements of 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b)) in order to fully reply to the notice of June 2, 2008, and seek a refund of this fee either concurrently or subsequently. However, Petitioner failed to fully respond to the notice, and as such, this application went abandoned by operation of law.

Moreover, *assuming arguendo* that the propriety of the requirement set forth in the notice of June 2, 2008 *is* relevant to the abandonment of this application, the nonpublication request that was present on filing could not have been entered, as it is defective, for it did not include the proper certification. See 35 U.S.C 122(b)(2)(B)(i), which indicates:

> If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under

---

3 The electronic record has been reviewed, and it does not appear that when submitting the issue fee, Petitioner submitted any arguments pertaining to his opinion that the publication fee was not required. In other words, Petitioner submitted a copy of this earlier communication, with no explanation of why it was presented, and no express assertion that he believed that the requirement for the publication fee had been made in error.
4 It is noted in passing that this argument was not presented prior to the abandonment of this application.
5 See 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b), reproduced above.

> a multilateral international (emphasis added) agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

The request that was present on filing did not include the proper certification, as Petitioner deleted the word "international" from the phrase "multilateral international agreement", which is part of the required statutory language. The Office is without authority to waive the statutory requirement.[6]

Thus, the application was properly published and the publication fee was due. Since the publication fee was not paid, the application is properly abandoned.

CONCLUSION

Pursuant to the above discussion, the record does not support a finding that the holding of abandonment should be withdrawn. As such, this petition pursuant to 37 C.F.R. § 1.181(a) must be dismissed.

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 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.

Since it does not appear that Petitioner will be able to secure the withdrawal of the holding of abandonment, **Petitioner may wish to instead seek the revival of this application, by filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b)**.

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,[7] hand-delivery,[8] or facsimile.[9]

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6 See A. F. Stoddard & Co. v. Dann, 184 U.S. App. D.C. 71, 564 F.2d 556, 1977 U.S. App. LEXIS 11815, 195 U.S.P.Q. (BNA) 97 (1977) ("Executive Branch agencies, such as the PTO, having the obligation to carry out their duties under their authorizing statutes, and if they would avoid an exercise of the powers of another Branch, must in almost every case, follow the strict provisions of the applicable statute.").

7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

9 (571) 273-8300- please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

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.[11]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
11 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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JUN 17 2009

OFFICE OF PETITIONS

J. Michael Neary
Neary Law Office
53939 Pine Grove Road
La Pine OR 97739

In re Application of	:	
Christopher W. Gabrys	:	
Application No. 11/207,375	:	DECISION ON RENEWED
Filed: August 18, 2005	:	PETITION PURSUANT TO
Attorney Docket No.: RM2274US	:	37 C.F.R. § 1.181(A)
Title: OPTIMIZED AIR CORE	:	
ARMATURE	:	

This is a decision on the renewed petition filed March 16, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed June 2, 2008, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting publication fees.[2] Accordingly, the above-identified application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on December 5, 2008.

RELEVANT PORTIONS OF THE C.F.R.

35 U.S.C. § 133 sets forth, *in toto*:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been

1 The issue fee was received on June 17, 2008.
2 See 37 C.F.R. § 1.211(e).

> 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 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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 (emphasis added). The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

PROCEDURAL HISTORY AND ANALYSIS

This application was filed on August 18, 2005. A nonpublication request was present on filing, and this request was not effectuated, as it is defective.

On March 23, 2006, Petitioner filed a "Request for correction of filing receipt data and withdrawal of publication" in response to the official filing receipt and the notice of publication. In this submission, Petitioner indicated that a nonpublication request was present on filing, and requested "a letter [to] be issued waiving the requirement for any publication fee."

In response to the notice of June 2, 2008, Petitioner submitted both the issue fee and a copy of the communication of March 23, 2006, but did not include the required publication fee.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 8, 2008, where Petitioner asserted that the publication fee requirement contained in the notice of June 2,

2008 was made in error, due to the presence of the non-publication request that was present on filing.

The original petition was dismissed via the mailing of a decision on January 16, 2009, which set forth, *in pertinent part*:

> Petitioner's contention regarding the propriety of the requirement for the publication fee is not well taken. **The propriety of a requirement set forth in an Office communication is not relevant to an applicant's burden to timely prosecute the application to avoid abandonment** (emphasis included).[3]
>
> Put another way, this application went abandoned due to Petitioner's failure to respond to the notice of June 2, 2008, and the propriety of a requirement set forth therein is not relevant to the abandonment of this application.
>
> If Applicant believed that the requirement for the publication fee had been made in error, the proper course of action would have been to submit the required publication fee (so as to comply with the requirements of 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b)) in order to fully reply to the notice of June 2, 2008, and seek a refund of this fee either concurrently or subsequently. However, Petitioner failed to fully respond to the notice, and as such, this application went abandoned by operation of law.
>
> Decision on original petition, page 3.

With this renewed petition, Petitioner has requested "his failure to pay the publication fee be waived,"[4] which is being interpreted as a request to withdraw the holding of abandonment despite the fact that the publication fee was not submitted in a timely manner.

The record does not support a finding that the holding of abandonment should be withdrawn, as this application went abandoned due to the fact that Petitioner did not fully comply with the notice of June 2, 2008.

It is noted in passing that Petitioner has indicated that the language of the nonpublication request that was present on filing tracks the language present in MPEP § 1135.

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3 See 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b), reproduced above.

4 Renewed petition, page 2.

CONCLUSION

The time period for filing a second 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 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.

Since it does not appear that Petitioner will be able to secure the withdrawal of the holding of abandonment, **Petitioner may wish to instead seek the revival of this application, by filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b)**.

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,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

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.[9]

Paul Shanoski
Senior Attorney
Office of Petitions

---

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 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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J. Michael Neary
Neary Law Office
53939 Pine Grove Road
La Pine OR 97739

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SEP 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Christopher W. Gabrys	:	
Application No. 11/207,375	:	DECISION ON SECOND RENEWED
Filed: August 18, 2005	:	PETITION PURSUANT TO
Attorney Docket No.: RM2274US	:	37 C.F.R. § 1.181(A)
Title: OPTIMIZED AIR CORE	:	
ARMATURE	:	

This is a decision on the second renewed petition filed August 17, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed June 2, 2008, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting publication fees.[2] Accordingly, the above-identified application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on December 5, 2008.

1 The issue fee was received on June 17, 2008.
2 See 37 C.F.R. § 1.211(e).

RELEVANT PORTIONS OF THE C.F.R.

35 U.S.C. § 133 sets forth, *in toto*:

> 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 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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 (emphasis added). The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

PROCEDURAL HISTORY AND ANALYSIS

This application was filed on August 18, 2005. A nonpublication request was present on filing, and this request was not effectuated, as it is defective.

On March 23, 2006, Petitioner filed a "Request for correction of filing receipt data and withdrawal of publication" in response to the official filing receipt and the notice of publication. In this submission, Petitioner indicated that a nonpublication request was present on filing, and requested "a letter [to] be issued waiving the requirement for any publication fee."

In response to the notice of June 2, 2008, Petitioner submitted both the issue fee and a copy of the communication of March 23, 2006, but did not include the required publication fee.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 8, 2008, where Petitioner asserted that the publication fee requirement contained in the notice of June 2, 2008 was made in error, due to the presence of the non-publication request that was present on filing.

The original petition was dismissed via the mailing of a decision on January 16, 2009, which set forth, *in pertinent part*:

> Petitioner's contention regarding the propriety of the requirement for the publication fee is not well taken. **The propriety of a requirement set forth in an Office communication is not relevant to an applicant's burden to timely prosecute the application to avoid abandonment** (emphasis included).[3]
>
> Put another way, this application went abandoned due to Petitioner's failure to respond to the notice of June 2, 2008, and the propriety of a requirement set forth therein is not relevant to the abandonment of this application.
>
> If Applicant believed that the requirement for the publication fee had been made in error, the proper course of action would have been to submit the required publication fee (so as to comply with the requirements of 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b)) in order to fully reply to the notice of June 2, 2008, and seek a refund of this fee either concurrently or subsequently. However, Petitioner failed to fully respond to the notice, and as such, this application went abandoned by operation of law.
>
> Decision on original petition, page 3.

A renewed petition was filed on March 16, 2009, and was dismissed via the mailing of a decision on June 17, 2009, which indicated that the record did not support a finding that the holding of abandonment should be withdrawn, as this application went abandoned due to the fact that Petitioner did not fully comply with the notice of June 2, 2008.

With this second renewed petition, Petitioner has asserted that he failed to realize that if he believed that the fee had been assessed in error, the proper course of action would have been to submit the fee and later seek a refund of said fee.[4] The fact

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3 See 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b), reproduced above.

4 Second renewed petition, page 3.

remains that Petitioner failed to fully respond to the notice, and as such, this application went abandoned by operation of law, pursuant to 35 U.S.C. § 133 and 37 C.F.R. § 1.135. It follows that the record does not support a finding that the holding of abandonment should be withdrawn.

CONCLUSION

The time period for filing a third 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 permitted.** The reply should include a cover letter entitled "Third 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. **Thereafter, there will be no further reconsideration of this matter**[5, 6].

Petitioner's only relief is a petition under 37 C.F.R. § 1.137(b), and - having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. § 1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

Petitioner has requested that this issue be reviewed by "another official at a higher position" than the undersigned.[7] Petitioner will note that should a final agency action be issued on any third renewed petition, the Director of the Office of Petitions will issue said action.

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5 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

6 If, on the third request for reconsideration, Petitioner fails to establish that the holding of abandonment should not be withdrawn; (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration will **not** apply to that decision.

7 Second renewed petition, page 3.

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,[8] hand-delivery,[9] or facsimile.[10] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[11]

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.[12]

Paul Shanoski
Senior Attorney
Office of Petitions

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
10 (571) 273-8300- please note this is a central facsimile number.
11 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
12 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.

J. Michael Neary
Neary Law Office
53939 Pine Grove Road
La Pine OR 97739

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Christopher W. Gabrys	:	
Application No. 11/207,375	:	DECISION ON TWO PETITIONS
Filed: August 18, 2005	:	PURSUANT TO 37 C.F.R.
Attorney Docket No.: RM2274US	:	§§ 1.181 AND 1.137(B)
Title: OPTIMIZED AIR CORE	:	
ARMATURE	:	

This is a decision on the submission that was received on November 9, 2009, entitled "Petition for Refund of Fee for Petition to Revive under 37 CFR 1.137(b), and for Refund of Improperly Charged Publication Fee." This submission is being treated as a third renewed petition pursuant to 37 C.F.R. § 1.181(a) (requesting that the holding of abandonment in the above-identified application be withdrawn), and a petition pursuant to 37 C.F.R. § 1.137(b) (to revive the above-identified application).

The third renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed June 2, 2008, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting publication fees.[2] Accordingly, the above-identified application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on December 5, 2008.

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1 The issue fee was received on June 17, 2008.
2 See 37 C.F.R. § 1.211(e).

This application was filed on August 18, 2005. A nonpublication request was present on filing, and this request was not effectuated, as it is defective. On March 23, 2006, Petitioner filed a "Request for correction of filing receipt data and withdrawal of publication" in response to the official filing receipt and the notice of publication. In this submission, Petitioner indicated that a nonpublication request was present on filing, and requested "a letter [to] be issued waiving the requirement for any publication fee." In response to the notice of June 2, 2008, Petitioner submitted both the issue fee and a copy of the communication of March 23, 2006, but did not include the required publication fee.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 8, 2008, and was dismissed via the mailing of a decision on January 16, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 16, 2009, and was dismissed via the mailing of a decision on June 17, 2009.

A second renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 17, 2009, and was dismissed via the mailing of a decision on September 8, 2009.

The third renewed petition pursuant to 37 C.F.R. § 1.181(a):

As was indicated in the decisions on the original, renewed, and second renewed petition, Petitioner failed to fully respond to the notice, and as such, this application went abandoned by operation of law, pursuant to 35 U.S.C. § 133 and 37 C.F.R. § 1.135. It follows that the record does not support a finding that the holding of abandonment should be withdrawn.

The petition pursuant to 37 C.F.R. § 1.137(b):

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information

where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b), at the time when this petition was filed, is set forth in 37 C.F.R. § 1.17(m) as being $1620 for a large entity and $810 for a small entity. The electronic file does not contain a record of this fee being included with this petition, and the petition does not contain a reference to the inclusion of the same. Moreover, the electronic file does not contain a general authorization to charge any fee deficiencies to a Deposit Account.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. § 711.03(c)(III)(B), which sets forth, *in toto*:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), **the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived** (emphasis added).
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.
>
> The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of

> "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a), was unavoidable.

Any future filings that do not include a complete petition under 37 C.F.R. § 1.137(b) (including the petition fee, the required statement of unintentional delay, and the required reply, *i.e.* the publication fee) may be considered an act of intentional delay. For Petitioner's convenience, a paper copy of the 1.137(b) petition form (Form PTO/SB/64) has been included with this decision. If further guidance is desired, Petitioner may wish to review MPEP § 711.03(c).

It is noted that Petitioner has requested a refund of the publication fee[3] (Office records do not show that the publication fee has been submitted to the Office). For future reference, if a refund of a particular fee that has been submitted to the Office is desired, any such request must be directed to the Office of Finance, and said request must be contained in a paper that is separate from a petition that is directed towards the Office of Petitions.[4]

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. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-

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3 Page 4 of the November 9, 2009 submission.

4 37 C.F.R. § 1.4(c) sets forth, *in toto*: "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.."

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

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.[9] 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

Encl. courtesy copy of form PTO/SB/64

6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

J. Michael Neary
Neary Law Office
53939 Pine Grove Road
La Pine OR 97739

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
Christopher W. Gabrys :
Application No. 11/207,375 :
Filed: August 18, 2005 :
Attorney Docket No.: RM2274US :
Title: OPTIMIZED AIR CORE :
ARMATURE :

REQUEST FOR MORE INFORMATION

This letter is being mailed in response to a renewed petition pursuant to 37 C.F.R. § 1.137(b) filed February 22, 2010, requesting reconsideration of a prior decision on a petition pursuant to 37 C.F.R. § 1.137(b).

The above-identified application became abandoned for failure to submit the publication fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed June 2, 2008, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting publication fees.[2] Accordingly, the above-identified application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on December 5, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 8, 2008, and was dismissed via the mailing of a decision on January 16, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 16, 2009, and was dismissed via the mailing of a decision on June 17, 2009.

1 The issue fee was received on June 17, 2008.
2 See 37 C.F.R. § 1.211(e).

A second renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 17, 2009, and was dismissed via the mailing of a decision on September 8, 2009.

A third renewed petition pursuant to 37 C.F.R. § 1.181(a) and a petition pursuant to 37 C.F.R. § 1.137(b) were concurrently filed on November 9, 2009, and were each dismissed via the mailing of a decision on December 22, 2009, which set forth, *in pertinent part*:

> **Any future filings that do not include a complete petition under 37 C.F.R. § 1.137(b) (including the petition fee, the required statement of unintentional delay, and the required reply, *i.e.* the publication fee) may be considered an act of intentional delay**. (Emphasis included)
>
> Decision on December 22, 2009.

With this renewed petition, Petitioner has asserted that the "fee was paid by a Credit Card Payment Form in the amount of $1110.00, and that reference to that payment was made in the first full paragraph on page 2 of the Petition." The electronic record has been reviewed, and it is noted that the fees were not received due to the fact that the credit card number which Petitioner provided is invalid.

Petitioner is hereby provided with a period of **ONE MONTH** to submit the required petition and publication fees to the Office. **This time period is not extendable**. Said fees should be provided along with a letter entitled "Response to Inquiry." After the decision on the response to this request for more information, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The mailing of this decision marks the fifth time that Petitioner has been informed of the need to submit the publication fee, and the second time that he has been informed of the need to submit the petition fee. This is the last opportunity Petitioner will be provided with to submit these two required fees. **The failure to submit both the publication and petition fees to the Office within one month of the mailing of this decision will be considered an intentional effort to delay the revival of this application, and a final agency action denying the revival request will be issued.**

The response to this inquiry should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5]

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

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.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this request for more information* should be directed to the undersigned at (571) 272-3225.[7]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300 - please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ELMORE PATENT LAW GROUP
209 MAIN STREET
N. CHELMSFORD, MA 01863

COPY MAILED

AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Bhanot, et al.	:	DECISION ON PETITION
Application No. 11/207,382	:	
Filed: August 19, 2005	:	
Atty. Dkt. No.: RTS-0532US.C2	:	

This decision is in response to the petition under 37 CFR 1.10(c) filed March 16, 2006.

Petitioners allege that the application was deposited in Express Mail Service on August 19, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. ER635181534US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of August 19, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on August 19, 2005.

In view thereof, the petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **August 19, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-06

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Dieter Leykamm	:	
Application No. 11/207,397	:	DECISION DISMISSING PETITION
Filed: 18 August, 2005	:	AS MOOT
Atty Dckt No. 30071/41417	:	

This is a decision on the petition, styled under 37 CFR 1.10(d), filed on 1 September, 2005, requesting that the above-identified application be accorded a filing date of 18 August, 2005.

A review of the Office PALM records reveals that this application was previously accorded a filing date of 18 August, 2005.

As the application has been accorded a filing date of 18 August, 2005, the present petition is unnecessary and will be dismissed as involving a moot issue.

A replacement Filing Receipt is enclosed for petitioner's records.

No petition fee is due and none has been charged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/207,397	08/18/2005	1734	1130	30071/41417	2	16	2

CONFIRMATION NO. 8010

REPLACEMENT FILING RECEIPT

OC000000018142797

04743
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

Date Mailed: 02/27/2006

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)

Dieter Leykamm, Neutraubling, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **04743**.

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102004013947.2 09/08/2004

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
US11/207,397

Projected Publication Date: 03/09/2006

Non-Publication Request: No

Early Publication Request: No

Title

Article with a labeled lateral surface and device for labeling an article

Preliminary Class

156

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE

GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/24/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/207411 Patent No.: 7448449 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1793
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED
JUN 22 2006
OFFICE OF PETITIONS

Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

In re Application of :
Houde-Walter, et al. : DECISION ON PETITION
Application No. 11/207,418 :
Filed: August 19, 2005 :
Atty. Dkt. No.: 28303.000030 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 26, 2006.

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 was became abandoned November 6, 2005 for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice) mailed September 5, 2005. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed May 16, 2006.

Petitioners argue that a response to the Notice was submitted via facsimile on October 27, 2005. Petitioners have submitted a copy of the response purportedly filed October 27, 2005 via facsimile. The response bears a certificate of transmission and indicates that it was transmitted to 571-273-9919.

The arguments of petitioner have been carefully considered, but are not found convincing. A review of the application file does not indicate receipt of the response purportedly submitted October 27, 2005.

Effective December 1, 2003, all patent application related correspondence transmitted by facsimile must be directed to the central facsimile number (571-273-8300), with a few exceptions.

Correspondence that may be sent by facsimile to a number other than the central facsimile number does include certain correspondence directed to the Office of Initial Patent Examination (OIPE). Requests for corrected filing receipt may be transmitted to OIPE at facsimile number 703-746-9195. Additionally, responses to a Notice to File Missing Parts may be transmitted to OIPE at facsimile number 703-746-4060.

There is no indication that petitioners adhered to the requirement to utilize either the centralized facsimile number or the facsimile number specifically designated for responses to Missing Parts Notices. Accordingly, a reasonable expectation that the Office would receive official correspondence via facsimile transmission to other than the centralized facsimile number or the facsimile number designated for OIPE to receive, via facsimile transmission, Missing Parts responses cannot be found.

Petitioners have provided no explanation for the failure to adhere to the requirement that all official correspondence be directed to the centralized facsimile number or to the facsimile number designated for OIPE Missing Parts responses.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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

Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

COPY MAILED

SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Houde-Walter, et al. : DECISION ON PETITION
Application No. 11/207,418 :
Filed: August 19, 2005 :
Atty. Dkt. No.: 28303.000030 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed July 31, 2006.

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 was became abandoned November 6, 2005 for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice) mailed September 5, 2005. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed May 16, 2006. A petition under 37 CFR 1.181 was filed May 26, 2006 and dismissed June 22, 2006.

Petitioners continued to assert that a response to the Notice was submitted via facsimile on October 27, 2005. The copy of the response bears a certificate of transmission and indicates that it was transmitted to 571-273-9919.

The arguments of petitioner have been carefully considered, but are not found convincing. A review of the application file does not indicate receipt of the response purportedly submitted October 27, 2005.

Effective December 1, 2003, all patent application related correspondence transmitted by facsimile must be directed to the

central facsimile number (571-273-8300), with a few exceptions. Correspondence that may be sent by facsimile to a number other than the central facsimile number does include certain correspondence directed to the Office of Initial Patent Examination (OIPE). Requests for corrected filing receipt may be transmitted to OIPE at facsimile number 703-746-9195. Additionally, responses to a Notice to File Missing Parts may be transmitted to OIPE at facsimile number 703-746-4060.

There is no indication that petitioners adhered to the requirement to utilize either the centralized facsimile number or the facsimile number specifically designated for responses to Missing Parts Notices. Accordingly, a reasonable expectation that the Office would receive official correspondence via facsimile transmission to other than the centralized facsimile number or the facsimile number designated for OIPE to receive, via facsimile transmission, Missing Parts responses cannot be found.

Petitioners argue that the Office had a reasonable expectation of receiving the correspondence purportedly submitted via facsimile despite the fact that petitioners failed to adhere to the centralized facsimile procedures discussed herein. Petitioners base this reasonable expectation on the assertion that Paula Weil, an employee of practitioner, is alleged to have communicated telephonically with an unknown person in the Office of Initial Patent Examination and was told to submit a facsimile to 571-273-9919.

A review of the application history does not reveal that the Office requested that applicants herein submit a response to facsimile number 571-273-9919. Moreover, in accordance with 37 CFR 1.2, official business before the Office must be conducted in writing and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. Moreover, improper application of the laws, rules, and procedures of the agency is not ground grounds for withdrawal of the holding of abandonment.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR

1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

In re Application of :
Houde-Walter, et al. : DECISION ON PETITION
Application No. 11/207,418 :
Filed: August 19, 2005 :
Atty. Dkt. No.: 28303.000030 :

This decision is in response to the petition renewed under 37 CFR 1.137(b) filed September 28, 2006.

The petition under 37 CFR 1.137(b) is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice) mailed September 5, 2005. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed May 16, 2006. A petition under 37 CFR 1.181 was filed May 26, 2006 and dismissed June 22, 2006. A renewed petition under 37 CFR 1.181 was filed July 31, 2006 and dismissed September 25, 2006.

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

This application will be 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

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

Stephen B. Salai, Esq.
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

Mail Date: 04/20/2010

Applicant	: Robert A. Kallio	: DECISION ON REQUEST FOR
Patent Number	: 7584569	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/23/2010

Applicant	: Stephen Ma	: DECISION ON REQUEST FOR
Patent Number	: 7606245	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,435	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1098** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/207,454	08/19/2005	Heung-Jun Park	0002298USU	7859

7590 07/03/2008

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER
REDDING, DAVID A

ART UNIT	PAPER NUMBER
3723	

MAIL DATE	DELIVERY MODE
07/03/2008	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.

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/09/2008 NFARMER 0000163510

CHECK Refund Total: $500.00

Adjustment date: 07/09/2008 NFARMER
08/23/2005 FFANAIA2 00000096 11207454
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.
11/207,455	08/19/2005	Hwa-Joong Kim	0002299USU	7855

7590 07/03/2008

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER
REDDING, DAVID A

ART UNIT	PAPER NUMBER
3723	

MAIL DATE	DELIVERY MODE
07/03/2008	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:
07/09/2008 NFARMER 0000163508

CHECK Refund Total: $500.00

Adjustment date: 07/09/2008 NFARMER
08/23/2005 FFANAIA2 00000097 11207455
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
MASON, et al.	:	
Application No. 11/207,464	:	DECISION ON PETITION
Filed: August 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 064361-5001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the birth certificate of inventor James G. Mason, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3694 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/21/2010

Applicant	: James G. Mason	: DECISION ON REQUEST FOR
Patent Number	: 7584128	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,464	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **20** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ELMORE PATENT LAW GROUP
209 MAIN STREET
N. CHELMSFORD, MA 01863

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Bhanot, et al.	:	DECISION ON PETITION
Application No. 11/207,478	:	
Filed: August 19, 2005	:	
Atty. Dkt. No.: MSFT- RTS-	:	
0532US.C1	:	

This decision is in response to the petition under 37 CFR 1.10(c) filed March 16, 2006.

Petitioners allege that the application was deposited in Express Mail Service on August 19, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. ED227894461US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of August 19, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on August 19, 2005.

In view thereof, the petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **August 19, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Brown, Alesia

From: U.S._Postal_Service_ [U.S._Postal_Service@usps.com]
Sent: Tuesday, August 01, 2006 8:11 AM
To: Brown, Alesia
Subject: U.S. Postal Service Track & Confirm email Restoration - ED22 7894 461U S

This is a post-only message. Please do not respond.

alesia brown has requested that you receive this restoration information for Track & Confirm as listed below.

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Label Number: ED22 7894 461U S

Service Type: Express Mail - Post Office to Addressee

Shipment Activity	Location	Date & Time
Delivered	ALEXANDRIA VA 22313	08/22/05 5:54am
Arrival at Pick-Up-Point	ALEXANDRIA VA 22313	08/20/05 9:14am
Arrival at Unit	DULLES VA 20102	08/20/05 9:02am
Enroute	PHILADELPHIA PA 19153	08/19/05 7:17pm
Acceptance	FORT WASHINGTON PA 19034	08/19/05 4:39pm

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Search Results

Label/Receipt Number: **ED22 7894 461U S**
Detailed Results:

- **Delivered, August 22, 2005, 5:54 am, ALEXANDRIA, VA 22313**
- **Arrival at Pick-Up-Point, August 20, 2005, 9:14 am, ALEXANDRIA, VA 22313**
- **Arrival at Unit, August 20, 2005, 9:02 am, DULLES, VA 20102**
- **Enroute, August 19, 2005, 7:17 pm, PHILADELPHIA, PA 19153**
- **Acceptance, August 19, 2005, 4:39 pm, FORT WASHINGTON, PA 19034**

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ONE MICROSOFT WAY
REDMOND WA 98052-6399

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OFFICE OF PETITIONS

In re Application of	:	
Gerber et al.	:	
Application No. 11/207,482	:	DECISION ON PETITION
Filed: August 19, 2005	:	
Attorney Docket No. 313419.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office action mailed May 1, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 2, 2009. A Notice of Abandonment was mailed December 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 2158 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
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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JAMES T. ROBINSON
EXCLUSIVITY-LAW, INC.
222 EAST MAIN STREET
NORMAN, OK 73069-1303

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OCT 19 2005
OFFICE OF PETITIONS

In re Application of	:	
David W. Van Meter	:	
Application No. 11/207,540	:	DECISION ON PETITION
Filed: August 19, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. VAM102	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed August 19, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment and energy, as set forth in M.P.E.P. § 708.02, Sections V and VI.

The petition is **DISMISSED**.

Petitioner mentions that the invention reduces fuel and conserves the energy resources of the vehicle. These comments appear to be drawn to the Energy criteria (MPEP 708.02-Section VI). Petitioner also mentions that the invention reduces pollution by the reduction of fuel. This is directed to the Environment Quality criteria (MPEP 708.02-Section V). Both will be treated.

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 statement that a low tire on a vehicle can come apart and creating pollution is inadequate to establish that the invention materially contributes to the maintenance or restoration of one of the life-sustaining elements.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an

attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The statement that a low tire on a vehicle reduces fuel is inadequate to establish that the invention materially contribute to category (B) set forth above. Petitioner has not shown how a reduction in a low tire on a vehicle corresponds to reduce energy consumption.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2632 for action in its regular turn.

David Buczi
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

EVEREST INTELLECTUAL PROPERTY LAW GROUP
P. O. BOX 708
NORTHBROOK, IL 60065

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Brent Anderson et al :
Application No. 11/207,563 : DECISION ON PETITION
Filed: August 19, 2005 :
Attorney Docket No. 113937-031 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 5, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 6, 2005. A Notice of Abandonment was mailed on June 12, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional

information. See MPEP 711.03(c)(II)(C). The instant petition lacks item (1).

The petition cannot be granted at this time since the reply submitted is incomplete. In this regard, the Notice of October 5, 2005 also required the submission of replacement drawings. There is no indication that replacement drawings were filed with the petition as part of the reply to the Notice of October 5, 2005.

Accordingly, the petition to revive cannot be granted until replacement drawings as required by the Notice of October 5, 2005 are submitted along with a renewed petition under 37 CFR 1.137(b) as indicated above.

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Brent Anderson et al. :
Application No. 11/207,563 :
Filed: August 19, 2005 :
Attorney Docket No. 113937-031 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional application, mailed October 5, 2005, which set a statutory period for reply of two (2) months. Accordingly, by operation of law, the above-identified application became abandoned on December 6, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition decision mailed April 18, 2007 noted that the petition filed September 27, 2006 was missing item (1) the required reply in the form of corrected drawings. The renewed petition includes the required drawings.

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 required drawing and fee(s) due; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the drawings are accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of the unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 Initial Patent Examination.

for David Bucci
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON PC
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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,620,476	: DECISION ON REQUEST
CHRISTOPHER JOHN MORSE et al.	: FOR
Issue Date: November 17, 2009	: RECONSIDERATION OF
Application No. 11/207,574	: PATENT TERM ADJUSTMENT
Filed: August 19, 2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
09945-0115001 / SC-2B	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 13, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five-hundred thirty-five (535) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by five-hundred thirty-two (532) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

With regards to the "B" delay period, the over three year period begins on August 20, 2008, the day after the date three years after the filing date and ends on November 17, 2009, the date of patent issuance, and is 455 days (not 458 days). Considering the 16 day period of overlap beginning on August 18, 2009, the day after the date four months after a reply was filed and ending on September 2, 2009, the date the notice of allowance was mailed, and the 123 day period of "B" delay awarded at the time the patent issued, the non-overlapping additional period of "B" delay is 316 days.

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 **five-hundred thirty-two (532)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,620,476 B2

DATED : November 17, 2009 **DRAFT**

INVENTOR(S) : CHRISTOPHER JOHN MORSE 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 216 days

Delete the phrase "by 216 days" and insert – by 532 days--

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UNITED STATES DEPARTMENT OF COMMERCE
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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	: Michael W. Reed	: DECISION ON REQUEST FOR
Patent Number	: 7608460	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,580	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **999** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,617,197	: DECISION ON APPLICATION FOR
Issued: November 10, 2009	: PATENT TERM ADJUSTMENT and
Application No. 11/207,581	: NOTICE OF INTENT TO ISSUE
Filed: August 19, 2005	: CERTIFICATE OF CORRECTION
Dkt. No.: 16113-1119001 / GP-594-02	:

This is a decision on the petition filed on January 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 334 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 334 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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 334 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,617,197 B2

DATED : **November 10, 2009** **DRAFT**

INVENTOR(S) : Stanton, 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 238 days

Delete the phrase "by 238 days" and insert – by 334 days--

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OFFICE OF PETITIONS

Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,512,620	:	
Dingle et al.	:	DECISION ON
Issue Date: March 31, 2009	:	REQUEST FOR
Application No. 11/207,583	:	RECONSIDERATION OF
Filed: August 19, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-1280001	:	
/ GP-594-01	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed June 1, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred fifty (250) days to four hundred seventy-four (474) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 31, 2009, the above-identified application matured into US Patent No. 7,512,620 with a patent term adjustment of 250 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.[1] See 37 C.F.R. § 1.705(d).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

Patentees request recalculation of the patent term adjustment to include a 224-day period of adjustment pursuant to 37 C.F.R. § 1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 224 days and the period of adjustment due to other examination delay, pursuant to 37 CFR § 1.702(a), of 348 days.[2]

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[1] The petition contains a certificate of mailing dated May 26, 2009.
[2] This application was filed on August 19, 2005, and a non-final Office action was not mailed until October 2, 2007, which is fourteen months and 348 days

The 224-day period is calculated based on the application having been filed under 35 U.S.C. § 111(a) on August 19, 2005, and the instant patent issued on March 31, 2009, which is 3 years and 224 days after its filing date.

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, the period of Office delay reduced by the period of applicant delay.

The period of reduction of 98 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (224 days) and the period of Examination Delay (348 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 examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 572 days, which is the sum of the period of Three Year Delay (224 days) and the period of Examination Delay (348 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 474 days (224 + 348 reduced by 0 overlap - 98 (applicant delay)).

The Office agrees that the application was pending 3 years and 224 days after its filing date. The Office agrees that a certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 348 days for Office delay is correct. At issue is whether Patentees should accrue 224 days of patent term adjustment for the Office taking in excess of three years to issue the patent (224 days less the 0 days of overlap), as well as 348 days for Office failure to take a certain action within a specified time frame (or examination delay).

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after the filing date. As such, this constitutes 348 days of Office delay, pursuant to 37 CFR § 1.702(a)(1).

The Office contends that the entire 224-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 application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg.

> 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of 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 37 C.F.R. § 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[3]

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 19, 2005 to March 31, 2009. 348 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frames during the pendency of the application. All of the 224 days for Office delay in issuing the patent overlap with the 348 days of Office delay. During that time, the issuance of the patent was delayed by 348 days, not 348 + 224 days. Other than the period of Office delays pursuant to 37 C.F.R. § 1.702(a)(1) which totals 348 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 348 days of Office delay and the 73 days of applicant delay and the time allowed within the time frames for processing and examination, the patent issued three years and 224 days after its filing date. The Office did not delay 348 days and then an additional 224 days. Accordingly, 348 days of patent term adjustment (not 348 and 224 days) was properly entered since the entire period of delay of 224 days attributable to the delay in the issuance of the patent overlaps

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[3] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

with the adjustment of 348 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 348 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 224 days over three years to the issuance of this patent.

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 Senior Attorney Paul Shanoski (571) 272-3225.

Christina L. Donnell for

Anthony Knight
Supervisor
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[4] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[4] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[5]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

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[5] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[6]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[6] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

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DEC 20 2005

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

In re application of Ethan B. Arutunian Application No. 11/207,600 Filed: August 19, 2005 For: ENHANCED MAPS, SUCH AS FOR LEAD GENERATION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 22, 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 November 22, 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 November 22, 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: 12/06/05

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KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine, CA 92612

Mail Date: 04/21/2010

Applicant	: John R. Camagna	: DECISION ON REQUEST FOR
Patent Number	: 7620825	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/207,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **902** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DEC 20 2005

PERKINS COIE LLP
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SEATTLE, WA 98111-1247

In re application of Ethan B. Arutunian Application No. 11/207,604 Filed: August 19, 2005 For: ENHANCED MAP IMAGERY, SUCH AS LOCATION-BASED ADVERTISING AND LOCATION-BASED REPORTING	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 22, 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 November 22, 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 November 22, 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
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Technology Center 3600
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KJD/slb: 12/06/05

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DEC 20 2005

PERKINS COIE LLP
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In re application of Ethan B. Arutunian Application No. 11/207,605 Filed: August 19, 2005 For: SYSTEM AND METHOD UTILIZING ENHANCED IMAGERY AND ASSOCIATED OVERLAYS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 22, 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 November 22, 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 November 22, 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.

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Technology Center 2100

FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784

In re Application of:
Joseph Carter et al.
Application No. 11/207,609
Filed: August 19, 2005
For: SYSTEM AND METHOD FOR ADMINISTERING PLUGGABLE USER INTERACTIVE SYSTEM APPLICATIONS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on February 23 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of February 23, 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the

Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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Workgroup Quality Assurance Specialist
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571-272-3610

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Mail Date: 04/26/2010

Applicant	: Mikhail Boukhny	: DECISION ON REQUEST FOR
Patent Number	: 7572242	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/207,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **194** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.