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 01 2009

OFFICE OF PETITIONS

RAY M ALDEN
808 LAKE BRANDON TRAIL
RALEIGH NC 27610

In re Application of	:	
Ray M. Alden	:	
Application No. 11/224,163	:	ON PETITION
Filed: September 12, 2005	:	
Title: Configurable RFID Apparatus and Process	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 18, 2009.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice to File Corrected Application Papers mailed February 4, 2009. This Notice set a non-extendable period for reply of two (2) months. No corrected drawings having been received, the application became abandoned on April 5, 2009. The Office mailed a Notice of Abandonment on May 11, 2009. The Notice incorrectly stated that the application had become abandoned for failure to file a timely reply to the Office letter mailed on February 9, 2009, not February 4, 2009.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of April 4, 2009, nor has petitioner stated that such a record does not exist. While the Office recognizes that pro-se applicants may not maintain a formal docketing system, the Office still needs an explanation from petitioner as to how he keeps track of incoming correspondence and how he reminds himself of due dates.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) (currently $810 for a small entity); and (3) A

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[1] MPEP 711.03(c).

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

Enc: copy of petition to revive form (3 pages)
copy of Notice to File Corrected Application Papers (3 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/224,163	09/12/2005	Ray M. Alden		8990

7590 02/09/2009

Ray M. Alden
808 Lake Brandon Trail
Raleigh, NC 27610

EXAMINER
SHARIFZADA, ALI R

ART UNIT	PAPER NUMBER
2876	

MAIL DATE	DELIVERY MODE
02/09/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Serial No. : 11/224,163
Applicant : ALDEN
Filing Date : 09/12/2005
Date of Notice : 02/04/2009

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 2 months from the date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

See attachment.

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee,Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450". Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

/Diane Terry/
Diane Terry
Office of Data Management
Phone: 703-308-9250, ext. 150

Application No. 11224163 Drawings filed 9-12-05

IDENTIFICATION OF DRAWING DEFICIENCIES

- ☐ The character of the lines, numbers, and letters is poor. FIG(s)_____
- ☐ There is a hole or the image thereof within the illustration. FIG(s)_____
- ☐ An ink stamp or the image thereof obscures part of the illustration. FIG(s)_____
- ☐ The illustration is penetrated or traversed by a solid or broken line that is not intended to be part of the drawing, such as a dark line caused by a flaw in the copying process. FIG(s)_____
- ☐ The drawing is marred by black smudges, obliterations, or fax/copier marks (for example, speckles or dots in a substantial portion of the drawing). FIG(s)_____
- ☐ Figure numbers are duplicated or missing. FIG(s) _____
- ☐ Drawing sheet or figure is missing. FIG(s)_____
- ☑ Numbers, letters, or reference characters in the drawing have been ~~crossed out~~ cut off Right side or are illegibly handwritten. FIG(s) 11 + 12A
- ☐ The drawing's background shows that the original drawing was made on graph paper or other paper with a pattern or decoration. FIG(s)_____
- ☐ The FIG. number label is placed in a location that causes the drawing to be read upside down. FIG(s)_____
- ☐ Data, a reference number, or part of the drawing is truncated or missing, or a lead line has no reference number. FIG(s)_____
- ☐ The drawing is continued onto a second page (or more) without proper labeling under 37 CFR 1.84(u)(1). FIG(s)_____
- ☐ The drawing and/or the FIG. label contain(s) foreign language. FIG(s)_____
- ☐ Color drawings are present in this application but the following 37 CFR 1.84(a) requirements have not been met*:
  - ☐ Petition explaining why color drawings are necessary
  - ☐ Petition fee set forth in § 1.17(h)
  - ☐ Three (3) sets of color drawings
  - ☐ Color drawing paragraph in specification

*If color drawings are not elected, then applicant **must respond** so stating. Also, references to color drawings in the specification, if any, must be amended.

COMMENTS:

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAY M ALDEN
808 LAKE BRANDON TRAIL
RALEIGH NC 27610

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Ray M. Alden	:	
Application No. 11/224,163	:	ON PETITION
Filed: September 12, 2005	:	
Title: Configurable RFID Apparatus and Process	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed June 8, 2009.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition under 37 CFR 1.137(a).

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice to File Corrected Application Papers mailed February 9, 2009.[1] This Notice set a non-extendable period for reply of two (2) months. No corrected drawings having been received, the application

[1] A prior decision on petition indicated that the Notice was mailed on February 4, 2009. Further review of the file reveals that while the Notice was dated (i.e. prepared) on February 4, 2009, it was not actually mailed until February 9, 2009.

became abandoned on April 10, 2009. The Office mailed a Notice of Abandonment on May 11, 2009. Applicant filed a petition to withdraw the holding of abandonment on May 18, 2009. However, the petition was dismissed in a decision mailed on June 1, 2009.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee required by 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)) as required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[3] In addition, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure,

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[3] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

does not constitute "unavoidable" delay.

Petitioner argues that the delay in this instance was unavoidable because he did not receive the February 9, 2009 Notice. In support thereof, petitioner has included a copy of a printout of a USPTO image file wrapper. Petitioner states that this indicates that no communication was mailed to him on February 9, 2009. On the contrary, a review of the printout reveals that a "Miscellaneous Communication" was mailed to applicant on February 9, 2009.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[4]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

As the Office recognizes petitioner is a pro-se applicant and not a registered practitioner, if petitioner seeks to establish that he did not receive the Notice mailed February 9, 2009, petitioner must explain his system for keeping track of correspondence and how he reminds himself of due dates.

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[4] MPEP 711.03(c).

While petitioner has not established that he failed to receive the February 9, 2009 Notice, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) (currently $810 for a small entity); 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

Enc: copy of petition to revive form (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAY M ALDEN
808 LAKE BRANDON TRAIL
RALEIGH NC 27610

MAILED

JAN 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Ray M. Alden	:	
Application No. 11/224,163	:	ON PETITION
Filed: September 12, 2005	:	
Title: Configurable RFID Apparatus and Process	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed December 23, 2009.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition under 37 CFR 1.137(a).

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice to File Corrected Application Papers mailed February 9, 2009.[1] This Notice set a non-extendable period for reply of two (2) months. No corrected drawings having been received, the application

[1] A prior decision on petition indicated that the Notice was mailed on February 4, 2009. Further review of the file reveals that while the Notice was dated (i.e. prepared) on February 4, 2009, it was not actually mailed until February 9, 2009.

became abandoned on April 10, 2009. The Office mailed a Notice of Abandonment on May 11, 2009. Applicant filed a petition to withdraw the holding of abandonment on May 18, 2009. However, the petition was dismissed in a decision mailed on June 1, 2009. Applicant filed a petition to revive under 37 CFR 1.137(a) on June 8, 2009, arguing that he did not receive the February 9, 2009 Notice. However, the petition was dismissed in a decision mailed on December 4, 2009.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee required by 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)) as required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

was "unavoidable."[3] In addition, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, does not constitute "unavoidable" delay.

Petitioner argues that the delay in this instance was unavoidable because he did not receive the February 9, 2009 Notice. In support thereof, petitioner has explained his system for keeping track of correspondence. According to petitioner, upon receipt of correspondence from the Office, he places the correspondence in a file containing all correspondence relating to the pending patent application. Petitioner then places that file into a "files requiring response" file folder. Petitioner states that the file remains within the "files requiring response" folder until he has responded to the Office. After responding to the Office, where there is no further action required by petitioner, he places the file in a safe.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[4]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar;

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[3] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] MPEP 711.03(c).

reminder system; or the individual docket record for the application in question.

As the Office recognizes petitioner is a pro-se applicant and not a registered practitioner, if petitioner seeks to establish that he did not receive the Notice mailed February 9, 2009, petitioner must explain his system for keeping track of correspondence and **how he reminds himself of due dates.**

Here, while petitioner has explained how he keeps track of correspondence (by placing received correspondence into a file folder), it is not apparent how petitioner reminds himself of any due dates. Petitioner states that he places his files requiring a response into a "files requiring response" file holder. Does petitioner check this on a daily basis to see if any response is due? Weekly? Further explanation from petitioner is needed.

While petitioner has not established that he failed to receive the February 9, 2009 Notice, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) (currently $810 for a small entity); 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:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAY M ALDEN
808 LAKE BRANDON TRAIL
RALEIGH NC 27610

MAILED
JUN 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Ray M. Alden	:	
Application No. 11/224,163	:	ON PETITION
Filed: September 12, 2005	:	
Title: Configurable RFID Apparatus and Process	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed March 8, 2010.

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

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice to File Corrected Application Papers mailed February 9, 2009.[1] This Notice set a non-extendable period for reply of two (2) months. No corrected drawings having been received, the application became abandoned on April 10, 2009. The Office mailed a Notice of Abandonment on May 11, 2009. Applicant filed a petition to withdraw the holding of abandonment on May 18, 2009. However, the petition was dismissed in a decision mailed on June 1, 2009. Applicant filed a petition to revive under 37 CFR 1.137(a) on June 8, 2009, arguing that he did not receive the February 9, 2009 Notice. However, the petition was dismissed in a decision

[1] A prior decision on petition indicated that the Notice was mailed on February 4, 2009. Further review of the file reveals that while the Notice was dated (i.e. prepared) on February 4, 2009, it was not actually mailed until February 9, 2009.

mailed on December 4, 2009. Applicant filed a renewed petition under 37 CFR 1.137(a) on December 23, 2009. However, that petition was dismissed in a decision mailed on January 27, 2010. The decision pointed out that while petitioner explained his system for keeping track of correspondence (by placing received correspondence into a file folder), it was not apparent how petitioner reminds himself of any due dates.

With the instant renewed petition, petitioner has satisfactorily explained how he reminds himself of due dates. In view of the evidence presented with the earlier filed petitions and the instant renewed petition, it is concluded that petitioner has met his burden of establishing that the entire delay was unavoidable.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing, using the drawings filed on June 8, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald J. Wolf
51082 Stratford Court
Elkhart, IN 46514

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AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of Wolf :
Application No. 11/224,169 : Decision on Petition
Filing Date: September 12, 2005 :
For: Position Sensor :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed December 7, 2005, which set a shortened statutory period for reply of three (3) months. The above-identified application became abandoned on March 8, 2006. A Notice of Abandonment was mailed on April 21, 2006.

The fee for a petition under 37 CFR 1.137(b) is $750. Petitioner only submitted $700. Therefore, the petition cannot be granted.

Petitioner should submit a request for reconsideration along with $50 for the remainder of the petition fee within two months of 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)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald J. Wolf
51082 Stratford Court
Elkhart, IN 46514

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NOV 0 2 2006
OFFICE OF PETITIONS

In re Application of Wolf :
Application No. 11/224,169 : Decision on Petition
Filing Date: September 12, 2005 :
For: Position Sensor :

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed December 7, 2005, which set a shortened statutory period for reply of three (3) months. The above-identified application became abandoned on March 8, 2006. A Notice of Abandonment was mailed on April 21, 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 Publications will be informed of the instant decision and will issue the application as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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PATENT SERVICES
101 COLUMBIA DRIVE
P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

Applicant	: James F. McGehee	: DECISION ON REQUEST FOR
Patent Number	: 7585104	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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DIW Feb-06

MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON OH 45479-0001

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FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Jesperson and Lyons	:	DECISION ACCORDING STATUS
Application No. 11/224,178	:	UNDER 37 CFR 1.47(a)
Filed: 12 September, 2005	:	
Atty Docket No. 11677.00	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 24 January, 2006.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Gunnar Jespersen, has refused to review the sign the declaration after having been sent a copy of the application. Specifically, petitioners have shown, via the declaration of Barrie Clark, that a copy of the application papers were sent to the non-signing inventor's last known address, but that the non-signing inventor has returned the application papers with a letter stating that "the paper cannot be signed", and has failed to sign and return the declaration naming him as a joint inventor along with Eric G. Lyons.

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*.

Petitioner is advised that the fee for a petition under 37 CFR 1.47(a) is $200.00. The balance due of $70.00 will be charged to counsel's deposit account, No. 14-0225, as authorized in the petition.

The application is being referred to Technology Center Art Unit 2621 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

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 Feb-06

Gunnar Jespersen
28 Erskine Street
Aberdeen UK AB24 3NQ
UNITED KINGDOM

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FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of
Jespersen et al.
Application No. 11/224,178
Filed: 12 September, 2005
For: SENSING ARRANGEMENT

Dear Mr. Jespersen:

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).

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON OH 45479-0001

10-15-08

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

Patent No. : 7,410,525
Inventor(s) : Chunqing Liu, et. al.
Issued : August 12, 2008
For: MIXED MATRIX MEMBRANES INCORPORATING MICROPOROUS POLYMERS AS FILLERS

Request for Certificate of Correction

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

Column 16 line 54 is printed in accordance with the record.

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

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

Honeywell Intellectual Property Inc.,
Patent Services
101 Columbia Drive
P.O. Box 2245 Mail Stop AB/2B
Morristown, NJ 07962

ej

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Ahmad et al.	:	
Application No. 11/224,189	:	ON PETITION
Filed: September 12, 2005	:	
For: COMPOSITIONS AND METHODS	:	
FOR REDUCING VAGINAL PH	:	

This is a decision on the Petition to Maintain Filing Date and Response to Notice to File Missing Parts of Nonprovisional Application, filed December 12, 2005, requesting the application be accorded a filing date of September 12, 2005, including Figures 1-7 described in the specification.

The petition is **dismissed**.

The application was filed on September 12, 2005. However, on October 12, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, noting that a filing date had been accorded the application; however, Figures 1-7 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that drawing Figures, including Figures 1-6 in the above-identified application, were incorporated by reference.

Applicant is advised that a petition is not necessary in this instance to add the drawings. The drawings may be entered by the primary examiner without a petition so long as the drawings are not new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are 'hereby incorporated by 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 continuation or divisional application to include any subject matter in such prior application(s), <u>without the need for a petition</u> provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

A preliminary amendment prior to the first Office action on the merits should be filed to add the drawings.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application <u>with a filing date of September 12, 2005</u>, using the application papers filed on that date.

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

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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NOV 30 2005

In re Application of Marshall Teague Serial No. 11/224,207 Filed: September 12, 2005 For: SLING BOW	: : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed September 12, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Mary J. Gaskin
Annelin & Gaskin
2170 Buckthorne Place, Suite 220
The Woodlands, TX 77380

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Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 05/04/2010

Applicant	: Anthony Hain	: DECISION ON REQUEST FOR
Patent Number	: 7609691	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/224,209	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **392** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Takahiro Kuriyama	:	
Application No. 11/224,235	:	DECISION ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. 016891-0882	:	

This is a decision on the petition, filed December 8, 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 respond to the Final Office action of March 26, 2008, which set a three (3) month shortened statutory period for reply. A reply was due on or before June 26, 2008. A Notice of abandonment was mailed on November 20, 2008.

Petitioner states that a reply was in fact timely filed to the Final Office Action. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 25, 2008 of, *inter alia,* Request for Continued Examination (RCE) Transmittal, Docket Report, and PAIR Printout. A copy of the previously submitted reply accompanies the petition.

The copy of a return postcard acknowledged as having been received in the USPTO on July 25, 2008, is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the RCE was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on July 25, 2008.

Petitioner has requested that the information included in Appendix B, submitted concurrently with the instant petition, to be expunged from the records. However, petitioner needs to file a separate petition under 37 CFR 1.59 expunge information or copy of application papers. *See* MPEP 724.06.

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

This application is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the RCE filed July 25, 2008.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CADENCE DESIGN SYSTEMS, INC
INTELLECTUAL PROPERTY DEPARTMENT
2655 SEELY AVENUE, BUILDING 5
SAN JOSE, CA 95134

Mail Date: 04/21/2010

Applicant	: Min-Chie Jeng	: DECISION ON REQUEST FOR
Patent Number	: 7606693	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,249	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **675** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

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In re Patent No. 7,468,422 :
Issue Date. December 23, 2008 :
Application No. 11/224,260 :
Filed: September 12, 2005 :
Attorney Docket No. 1383-DIV-00 :

NOTICE

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.

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARL-BOSCH STRASSE 38, 67056 LUDWIGSHAFEN
LUDWIGSHAFEN 69056 DE GERMANY

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MAY 01 2008

In re Application of	:	
Calvin T. PEELER et al.	:	
Application No. 11/224,263	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. **12027C10**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 09, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2007.

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

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 May 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37

CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See the enclosed PTO-303.

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

By Mail: Mail Stop PETITION

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

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

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

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

David Buccì
Petitions Examiner
Office of Petitions

cc: **HOWARD AND HOWARD ATTORNEYS, P.C.**
THE PINEHURST OFFICE CENTER, SUITE 101
39400 WOODWARD AVE.
BLOOMFIELD HILLS, MI 48304-5151

Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/224,263	Applicant(s) PEELER ET AL.	
	Examiner SAIRA HAIDER	Art Unit 1796	

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

THE REPLY FILED 10 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *Claims 1 and 28 each have been amended to further limit the stoichiometric excess of the polyisocyanate. The newly added limitations alter the scope of the claims and thus raise new issues requiring further consideration and/or search by the examiner*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☒ Newly proposed or amended claim(s) *44* would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *19 and 26*.
   Claim(s) rejected: *1-18,20-25 and 27-29*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Randy Gulakowski/
Supervisory Patent Examiner, Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance because: Applicants have argued that the rejection based on the combination of Bilkadi and Kest is invalid since the claims limit the stoichiometric ratio to greater than about 1.20. However, the Kest reference discloses a stoichiometric ratio of 1.20 and provides adequate motivation to function at this ratio, as set forth in the rejection. Thus, the combination of Bilkadi and Kest is rendered valid and the rejection is maintained.

Newly proposed claim 44 is allowable. However, since all of the claims are not rendered allowable the application is not in condition for allowance.

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LUDWIGSHAFEN 69056 DE GERMANY

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AUG 05 2008

In re Application of	:	
Calvin T. PEELER et al.	:	
Application No. 11/224,263	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. **12027C10**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 01, 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 May 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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. Accordingly, the reply to the final Office Action of May 16, 2007 is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 1796 for processing the RCE and for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **HOWARD AND HOWARD ATTORNEYS, P.C.**
THE PINEHURST OFFICE CENTER, SUITE 101
39400 WOODWARD AVE.
BLOOMFIELD HILLS, MI 48304-5151

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Calvin T. Peeler et al.	Confirmation No.: 9053
Serial No.:	11/224,263	
Group Art Unit:	1796	
Filed:	September 12, 2005	
Examiner:	Haider, Saira Bano	
For:	COMPOSITE ARTICLE	

RENEWED PETITION FOR REVIVAL OF AN ABANDONED APPLICATION

Mail Stop PETITIONS
Attn: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

According to the United States Patent & Trademark Office (USPTO), the above-identified patent application became abandoned for failing to file a timely reply to a Final Office Action. In response to this notification of abandonment, mailed on December 20, 2007 the Applicant petitioned to revive the present patent application on March 10, 2008 under the unintentional standard pursuant to 37 CFR § 1.137(b). 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. The Petition for Revival was also submitted with an Amendment After Final Rejection pursuant to 37 CFR § 1.116.

The Patent Examiner rejected the claims set forth in the Amendment After Final Rejection as failing to put the claims in a condition for allowance. This caused the Petitions Examiner to dismiss the Petition to Revive on May 1, 2008.

Accordingly, the Applicant hereby submits a Renewed Petition for Revival under the unintentional standard pursuant to 37 CFR § 1.137(b). 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. The Applicant also files a Request for Continuing Examination (RCE) and an Amendment. Upon grant of this Renewed Petition for Revival, the Applicant respectfully requests that this Amendment be entered and that the claims be allowed.

The Applicant relies on the $1540.00 fee already paid to the USPTO pursuant to 37 CFR § 1.17(m) in this Renewed Petition to Revive. The Applicant includes the appropriate RCE fee with this Petition. If any additional fees are necessary to revive the present patent application, you are hereby authorized to charge such fees to Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys, P.C..

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

July 1, 2008
Date

/David M. LaPrairie/

David M. LaPrairie, Registration No. 46,295
Howard and Howard Attorneys, P.C.
The Pinehurst Office Center, Suite 101
39400 Woodward Ave.
Bloomfield Hills, MI 48304-5151
(248) 723-0442

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

Prior Foreign Application Number(s)	Country	Foreign Filing Date	Priority Not Claimed	Certified Copy Attached Yes
			☐	☐

I hereby claim the benefit under Title 35 United States Code, § 119(e) of any United States provisional application(s) listed below:

Application Number(s)	Filing Date

POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Fernando A. Borrego (34,780); Karen M. Dellerman (33,592); David Banchik (36,439); Mary E. Golota (36,814); Barbara V. Maurer (31,278); Anne G. Sabourin (33,772); Brian W. Stegman (30,977); Mark Westhafer (42,220); Randall L. Shoemaker (43,118); and David M. LaPrairie (46,295).

Send correspondence to:

Fernando A. Borrego
BASF Corporation
1609 Biddle Avenue
Wyandotte, MI 48192

Direct telephone calls to:

(734) 324-6193

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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

BASF AKTIENGESELLSCHAFT
CARL-BOSCH STRASSE 38, 67056 LUDWIGSHAFEN
LUDWIGSHAFEN 69056 DE GERMANY

In re Application of	:	
Calvin T. PEELER et al.	:	
Application No. 11/224,263	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. **12027C10**	:	

space

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filedJuly 01, 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 37CFR 1.113 to the final Office action of May 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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. Accordingly, the reply to the final Office Action of May 16, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-2783.

This application is being referred to Technology Center AU 1796 for processing the RCE and for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **HOWARD AND HOWARD ATTORNEYS, P.C.**
THE PINEHURST OFFICE CENTER, SUITE 101
39400 WOODWARD AVE.
BLOOMFIELD HILLS, MI 48304-5151

Insert the attached ¶

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11224263 Total Records Found: 7

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/03/2008	00000001	1	1202	$700.00	07/01/2008	DA 082789
07/02/2008	00004854	4	1801	$810.00	07/01/2008	DA 082789
03/11/2008	00005634	4	1453	$1,540.00	03/10/2008	DA 082789
09/15/2005	00000016	1	1011	$300.00	09/12/2005	CK
09/15/2005	00000017	1	1111	$500.00	09/12/2005	CK
09/15/2005	00000018	1	1311	$200.00	09/12/2005	CK
09/15/2005	00000019	1	1202	$450.00	09/12/2005	CK

PTO/SB/30EFS (03/08)
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 contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	11224263	Filing Date	2005-09-12	Docket Number (if applicable)	12027C10	Art Unit	1796
First Named Inventor	Peeler, Calvin T.			Examiner Name	Haider, Saira Bano		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☐ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☒ Other Renewed Petition to Revive

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 082789

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

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

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

Mail Date: 04/26/2010

Applicant	: Isador H. Lieberman	: DECISION ON REQUEST FOR
Patent Number	: 7601167	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/224,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1066** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

ILLINOIS TOOL WORKS INC.
3600 WEST LAKE AVENUE
PATENT DEPARTMENT
GLENVIEW IL 60025

In re Application of	:	MAY - 6 2010
KIELIAN, SLAWOMIR	:	
Application No.: 11/224,267	:	DECISION ON
Filing or 371(c) Date: September 12, 2005	:	PETITION
Attorney Docket Number: 15386	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) on April 13, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed December 23, 2009 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 8, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on January 4, 2010.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/23/2010

Applicant	: Donnie J. Duis	: DECISION ON REQUEST FOR
Patent Number	: 7625197	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/224,272	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/27/2010

Applicant	: Ryuhei Kametani	: DECISION ON REQUEST FOR
Patent Number	: 7607993	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/224,290	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **557** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

COPY MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Carl-Johan Hjerpe	:	DECISION ON PETITION
Application No. 11/224,306	:	TO WITHDRAW
Filed: September 13, 2005	:	FROM RECORD
Attorney Docket No. GTE-07-1056	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 13, 2005.

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

A review of the file record indicates that the power of attorney to practitioners associated with Nixon & Vanderhye, PC, has been revoked by the assignee of the patent application on March 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

COPY MAILED
JUL 14 2008

In re Application of	:	
Wurtman et al.	:	
Application No. 11/224311	:	ON PETITION
Filing Date: 09/13/2005	:	
Attorney Docket Number:	:	
P-7105-US4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 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 November 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 17, 2008.

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

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

This application is being referred to Technology Center AU 1623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of Data Management

JOHN P. DE LUCA
17420 RYEFIELD CT.
DICKERSON MD 20842

In re Application of	:	JAN 14 2009
OWEN, STEPHEN et al.	:	
Application No. 11/224,327	:	**DECISION ON PETITION**
Filed: September 13, 2005	:	
Attorney Docket No. 66347-130	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on December 7, 2007.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed July 31, 2007. The Notice of Abandonment, mailed on December 6, 2007 indicates, "The submitted fee of $0 is insufficient. A balance of $1700 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on August 24, 2007 authorizing that the Issue Fee be charged to Deposit Account No. 50-4147. On August 24, 2007 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at (703) 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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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MAILED

MAR 06 2009

OFFICE OF PETITIONS

JOHN P. DE LUCA
17420 RYEFIELD CT.
DICKERSON, MD 20842

In re Application of Stephen Owen, et al. Application No. 11/224,327 Filed: September 13, 2005 Attorney Docket No. 66347-130	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 15, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 31, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 18, 2007, which set a statutory period for reply of three (3) months. A Notice of Abandonment was subsequently mailed on December 6, 2007. On January 15, 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 the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Santosh Mathan	: DECISION ON REQUEST FOR
Patent Number	: 7631028	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 2 8 2010

Walter W. Nielsen
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re application of: Steve H. Dohrmann et al.	: DECISION ON PETITION
Appl. No. 11/224,333	: TO WITHDRAW THE FINALITY
Filed: September 12, 2005	: OF ACTION
For : **METHODS AND APPARATUS FOR UNATTENDED PICKUPS AND DELIVERIES**	: UNDER 37 C.F.R. 1.181

This is a decision on applicants' petition under 37 CFR 1.181 received on February 11, 2010 requesting withdrawal of the finality of the Office action mailed December 11, 2009.

The Petition is **DENIED.**

Petitioners argue that the Office action mailed December 11, 2009 was improperly made final on the basis "that the Office failed to repeat or state all grounds of rejection applicable to the claims in the application, clearly stating the reasons in support thereof. Thus, the Office prevented applicants from a full and fair hearing and from clearly developing the issues prior to appeal". More specifically, petitioners argue that the Office failed to apply the new grounds of rejection against the following limitation in independent claim 35:

> "communicating first access information to the storage element of the control unit by a shipper recipient, wherein the first access information identifies... <u>a specifically identified geographical location, wherein the geographical location comprises a specified region</u>" (emphasis added)

A review of the file record reveals that on August 27, 2009, the applicants amended the claims in response to a non-final Office action mailed June 11, 2009. A final Office action was mailed on December 11, 2009 with an indication that applicant's arguments were moot in view of the new grounds of rejection.

A further review of the file history indicates that in paragraph 5 of the Office action mailed December 11, 2009, a new grounds of rejection under 35 U.S.C 103 over Stephens et al. in view of Official Notice was applied to claim 35. In paragraph 6 of the Office action, the rejection relies on Fig. 5 of the Stephens et al. reference (US 5,323,782) to teach "a control

unit comprising a storage element, the control unit further comprising a processing element, coupled to the access element and to the lock". In viewing figure 5 of the Stephens et al. reference, element 80 depicts a GPS Transmitter/Receiver which according to the specification, column 12 and lines 57-65, may be configured to request and receive a GPS positioning signal. One of ordinary skill in the art would have known that a GPS positioning signal would identify a specific geographical location (by geographical coordinates), wherein the geographical location would comprise a specified region (for example N for the northern hemisphere).

Therefore, the Office action mailed December 11, 2009 did not fail to address the above emphasized limitation in independent claim 35. The Office action was properly made Final.

Any questions regarding this decision should be directed to Supervisory Patent Examiner F. Ryan Zeender at 571-272-6790.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

FZ/LM: 6/18/10
LM

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

Mail Date: 05/07/2010

Applicant	: Benjamin L. Lee	: DECISION ON REQUEST FOR
Patent Number	: 7630135	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/224,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Jason P. Torrey	: DECISION ON REQUEST FOR
Patent Number	: 7646765	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : Jason P. Torrey
Patent Number : 7646765
Issue Date : 01/12/2010
Application No: 11/224,345
Filed : 09/12/2005

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

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

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

The patent term adjustment has been determined to be **1120** 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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MDS ANALYTICAL TECHNOLOGIES
1311 ORLEANS DRIVE
SUNNYVALE, CA 94089

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OCT 2 7 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
David Jones et al
Application No. 11/224,354
Filed: September 9, 2005
Attorney Docket No. 42US

This is a decision on the petition filed July 15, 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 January 30, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 1, 2008.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

8/24/09

Patent No. :7459918
Inventor(s) :Jones et al.
Issued : 12/2/2008
Title : IMPEDANCE MEASUREMENT SYSTEM WITH INCORPORATED INTERNAL MEASUREMENT DRIFT COMPENSATION NETWORKS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 15 col. 9 line 6 is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

WEAVER AUSTIN VILLENEUVE & SAMPSON
P.O. BOX 70250
OAKLAND, CA 94612-0250

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/30/09

TO SPE OF : ART UNIT 2831 Gutierrez, Diego

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/224354 Patent No.: 7459918

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: on 11/10/09

11/10/09

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER
SPE

2831
Art Unit

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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

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OFFICE OF PETITIONS

In re Application of :
Fredrick R. HATCH :
Application No. 11/224,362 : DECISION ON PETITION
Filed: September 12, 2005 :
Attorney Docket No. SP-40072 (71024-504) :

This is a decision on the petition, filed October 20, 2008, 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 timely file a reply within the meaning of 37 CFR 1.113 to the Non-Final Office action of February 26, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of an Acknowledgement Receipt which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 11, 2008 of a reply including, inter alia, an Amendment-After Non-Final Rejection of 4 pages.

The petition also presents a six page amendment dated April 11, 2008 as a copy of the previously submitted reply. However, the Acknowledgement Receipt of April 11, 2008 indicates receipt of an amendment having only 4 pages, not 6 pages.

Accordingly, absent the evidence to establish receipt by the USPTO of the entire six page amendment now presented, 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 $ 1620 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
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

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FEB 1 8 2009

OFFICE OF PETITIONS

In re Application of :
Frederick R. HATCH :
Application No. 11/224,362 :
Filed: September 12, 2005 :
Attorney Docket No. SP-40072 (710240-504) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 27, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 26, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3676 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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

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APR 28 2010

OFFICE OF PETITIONS

In re Application of :
Maria Op De Beeck :
Application No. 11/224,367 :
Filed: September 12, 2005 :
Attorney Docket No. 05-744

ON PETITION

This is a decision on the petition, filed April 26, 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 April 1, 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 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/05/2010

Applicant	: Chuong Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7650164	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/224,368	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **529** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENNETH F. PEARCE
631 DENMARK DRIVE
DANVILLE KY 40422-2419

In re Application of
Peter Kahn
Application No. 11/224,371
Filed: September 12, 2005
Attorney Docket No. 2005KP423PA

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 23, 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 Kenneth F. Pearce on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. PETER KAHN
351 S. COUNTRY ROAD
BROOKHAVEN, NY 11719

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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
11/224,371	09/12/2005	Peter Kahn	2005KP423PA

CONFIRMATION NO. 2948

OC000000025457155

27954
KENNETH F. PEARCE
631 DENMARK DRIVE
DANVILLE, KY 40422-2419

Date Mailed: 08/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2007.

- 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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FEB - 9 2006

KING & SPALDING LLP
191 Peachtree Street, N.W.
45th Floor
Atlanta, GA 30303-1763

In re application of Larry Schulz Application No. 11/224,380 Filed: September 12, 2005 For: MANAGING FOREIGN PAYMENTS IN AN INTERNATIONAL ACH	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on January 23, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 02/06/06

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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REISING ETHINGTON P.C.
P O BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: Heiko Heim	: DECISION ON REQUEST FOR
Patent Number	: 7631904	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **688** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

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OFFICE OF PETITIONS

In re Application of	:	
Ronald Pellar	:	
Application No. 11/224,419	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 066329/000444	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before March 24, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 24, 2009. Accordingly, the date of abandonment of this application is April 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) corrected formal drawings , (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 3600

KING & SPALDING
CREDIT SUISSE SECURITIES (USA) LLC
1180 PEACHTREE STREET, NE
34TH FLOOR
ATLANTA, GA 30309-3521

In re application of Stefano Natella et al. Application No. 11/224,431 Filed: September 12, 2005 For: DERIVATIVE RELATIONSHIP NEWS EVENT REPORTING	**DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102**

This is a decision on the petition filed on August 29, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "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 petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition does not comply with items 2 and 4 above, the petition is **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Special Program Examiner, at (571) 272-6587.

Kenneth J. Dorner
Special Program Examiner
Technology Center 3600

KJD/dew: 10/26/06

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KING & SPALDING
CREDIT SUISSE SECURITIES (USA) LLC
1180 PEACHTREE STREET, NE
34TH FLOOR
ATLANTA, GA 30309-3521

In re application of
Stefano Natella et al.
Application No. 11/224,431
Filed: September 12, 2005
For: DERIVATIVE RELATIONSHIP NEWS EVENT REPORTING

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

The "DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102" mailed November 1, 2006 is hereby rescinded. In error, the Certificate of Mailing date of August 24, 2006 was overlooked.

This is in response to the petition filed on August 24, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600
571-272-6587

KJD/dew: 11/17/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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34TH FLOOR
ATLANTA, GA 30309-3521

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Stefano Nastella :
Application No. 11/224,431 :
Filed: September 12, 2005 :
Attorney Docket No. 07095.105001 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 31, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 16, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 26, 2007 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to the Technology Center 3691.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/224,431	09/12/2005	Stefano Natella	07095.105001

CONFIRMATION NO. 1892

65519
KING & SPALDING
CREDIT SUISSE SECURITIES (USA) LLC
1180 PEACHTREE STREET, NE
34TH FLOOR
ATLANTA, GA 30309-3521

Date Mailed: 04/18/2007

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 07/26/2007.

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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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Glenn W. Myers	: DECISION ON REQUEST FOR
Patent Number	: 7609642	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1049** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER- BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Gary Dean LaVon et al	:	
Application No. 11/224,462	:	DECISION GRANTING PETITION
Filed: September 12, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 10137	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 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 30, 2005, which required the submission of an executed oath or declaration in compliance with 37 CFR 1.63 and a $130 surcharge fee for its late filing. 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 December 1, 2005. A Notice of Abandonment was mailed on June 6, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of September 30, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

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

In re Application of Wallstein et al. Application No. 11/224,492 Filed: September 12, 2005 Attorney Docket No. 27855/39773A Title: Cable Coupler Having Retained Wedges	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed February 2, 2006 (certificate of mailing January 30, 2006), 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 September 12, 2005, without an executed oath or declaration. Accordingly, on September 28, 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 28, 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 two (2) 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 (2).

As to item (2), the signature block of inventor Wallstein contains non-initialed alterations to the declaration. Further the address for inventor Brandon provided in the petition differs from the address provided in the declaration. A newly executed declaration without alterations or an application data sheet (ADS) which contains the proper addresses for inventors Wallstein and Brandon should be provided.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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In re Application of
Alexander Wallstein and Raymond Brandon
Application No.11/224,492
Filed: September 12, 2005
Attorney Docket No. 27855/39773A
Title of Invention: Cable Coupler Having Retained Wedges

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed August 18, 2006 (certificate of mailing August 14, 2006).

The petition is GRANTED.

Petitioner has shown that non-signing inventor Brandon has refused to join in the filing of the above-identified application. Petitioner has provided evidence of refusal of the application papers.

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

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Raymond Brandon
561 Sol Lane
Grand Junction, Colorado 81504

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OFFICE OF PETITIONS

In re Application of
Alexander Wallstein and Raymond Brandon
Application No.11/224,492
Filed: September 12, 2005
Attorney Docket No. 27855/39773A
Title of Invention: Cable Coupler Having Retained Wedges

: LETTER

Dear Mr.Brandon:

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606
ATTN: Meggan F. Duffy

APPROVED: /TMP/ 07/07/2010

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: May 13, 2010 Signature: (Michael P. Furmanek)

Docket No.: 31293/39773A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:
Wallstein, et al.

Patent No.: 7,384,216 Confirmation No.: 1653

Issue Date: June 10, 2008 Art Unit: 3671

For: Cable Coupler Having Retained Wedges Examiner: Tara L. Mayo

REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 C.F.R. § 1.324 TO CORRECT INVENTORSHIP IN A PATENT UNDER 35 U.S.C. § 256

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Patentee hereby requests to have Raymond Brandon, Grand Junction, CO (US) REMOVED as a named inventor on the above-identified patent. As a result, the patent will name Alexander I. Wallstein as the sole inventor.

Pursuant to 37 C.F.R. §1.324, the following documents are submitted herewith in support of this request:

(a) Statement of Raymond Brandon Under 37 CFR §1.324, whereby Raymond Brandon indicates that he agrees that his name should be removed from the inventorship listing on the above-identified patent;

(b) Statement of Alexander I. Wallstein Under 37 CFR §1.324, whereby Alexander I. Wallstein indicates that he has no disagreement with Raymond Brandon being removed from the inventorship listing on the above-identified patent; and

(c) Consent of Assignee Under 37 CFR §1.324, which constitutes a statement in compliance with 37 C.F.R. §3.73(b), whereby the assignee of the above-identified patent, DSI Underground Systems, Inc., indicates that it agrees with removing Raymond Brandon from the inventorship listing on the above-identified patent.

The $130 processing fee required by 37 C.F.R. §1.20(b) has been paid upon the electronic submission of this paper. Patentee does not believe any additional fees are necessary, but if the Office deems otherwise, kindly charge the cost thereof to Deposit Account No. 13-2855.

In view of the foregoing, it is respectfully requested that a Certificate of Correction be issued showing that Raymond Brandon has been REMOVED from the inventorship listing on the above-identified patent.

Transmitted herewith is a proposed Certificate of Correction effecting such change. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Date: May 13, 2010

Respectfully submitted,

By _____

Michael P. Furmanek
Registration No.: 58,495
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant

This Certificate of Correction is NOT ACCURATE. The name of inventor Raymond Brandon should be REMOVED. /TMP/ 07 July 2010

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO/1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,384,216

APPLICATION NO. : 11/224,492

ISSUE DATE : June 10, 2008

INVENTOR(S) : Wallstein et al.

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

On the Cover Page:

At field (75), "Inventors: **Alexander I. Wallstein**, Laguna Beach, CA (US); **Raymond Brandon**, Grand Junction, CO (US)" should be --Inventor: **Alexander I. Wallstein**, Laguna Beach, CA (US) --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Michael P. Furmanek
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

Docket No.: 31293/39773A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,384,216

Currently Named Inventors: Alexander Wallstein and Raymond Brandon

Issued: June 10, 2008

For: Cable Coupler Having Retained Wedges

STATEMENT OF RAYMOND BRANDON UNDER 37 CFR 1.324

I, Raymond Brandon, hereby state as follows:

1. I currently reside at:
561 Sol Lane, Grand Junction, Colorado 81504.

2. I have reviewed the specification, drawings, and claims of U.S. Patent No. 7,384,216.

3. I understand that U.S. Patent No. 7,384,216 currently names the following individuals as joint inventors: Alexander Wallstein and Raymond Brandon.

4. I did not contribute to the invention defined by the claims of U.S. Patent No. 7,384,216.

5. Through error, I was named as a joint inventor on U.S. Patent No. 7,384,216. This error occurred without any deceptive intention on my part.

6. I agree that my name should be removed from the inventorship listing on U.S. Patent No. 7,384,216.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I hereby further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the above-identified patent.

Dated: April 23, 2010

Signed,

Raymond Brandon

Raymond Brandon
561 Sol Lane
Grand Junction, Colorado 81504

Docket No.: 31293/39773A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,384,216

Currently Named Inventors: Alexander Wallstein and Raymond Brandon

Issued: June 10, 2008

For: Cable Coupler Having Retained Wedges

STATEMENT OF ALEXANDER WALLSTEIN UNDER 37 CFR 1.324

I, Alexander Wallstein, hereby state as follows:

1. I currently reside at:
884 Bluebird Canyon Drive, Laguna Beach, California 92651

2. I have reviewed the specification, drawings, and claims of U.S. Patent No. 7,384,216.

3. I understand that U.S. Patent No. 7,384,216 currently names the following individuals as joint inventors: myself Alexander Wallstein and Raymond Brandon.

4. I have no disagreement with Raymond Brandon being removed from the inventorship listing on U.S. Patent No. 7,384,216.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I hereby further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18

U.S.C. §1001 and that such willful false statements may jeopardize the validity of the above-identified patent.

Dated: 5/5, 2010

Signed,

Alexander Wallstein

Alexander Wallstein
884 Bluebird Canyon Drive
Laguna Beach, California 92651

Docket No.: 31293/39773A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 7,384,216

Currently Named Inventors: Alexander Wallstein and Raymond Brandon

Issued: June 10, 2008

Title: Cable Coupler Having Retained Wedges

CONSENT OF ASSIGNEE UNDER 37 CFR 1.324

1. The assignee of the entire right, title, and interest in U.S. Patent No. 7,384,216 is DSI Underground Systems, Inc., 447 Dupont Rd., Martinsburg, West Virginia, 25401 (hereinafter "the assignee").

2. The chain of title from the inventors to the assignee is evidenced by the following ownership transfer documents recorded with the United States Patent & Trademark Office:

(a) Assignment from Alexander Wallstein to Dywidag-Systems International USA, Inc., 320 Marmon Drive, Bolingbrook, Illinois 60440, recorded at Reel/Frame 018658/0966;

(b) Assignment from Dywidag-Systems International USA, Inc. to DSI Ground Support Inc., 3900 West 700 South, Salt Lake City, Utah 84104, recorded at Reel/Frame 019628/0903; and

(c) Merger of DSI Ground Support Inc. into DSI Underground Systems, Inc., 447 Dupont Rd., Martinsburg, West Virginia 25401, recorded at Reel/Frame 023720/0217.

3. The undersigned individual is authorized to sign on behalf of the assignee of U.S. Patent No. 7,384,216, DSI Underground Systems, Inc..

4. U.S. Patent No. 7,384,216 issued naming the following joint inventors: Alexander Wallstein and Raymond Brandon.

5. Through error, Raymond Brandon was identified as a joint inventor.

6. The assignee, DSI Underground Systems, Inc., agrees with removing Raymond Brandon from the inventorship listing on U.S. Patent No. 7,384,216.

Dated: 04/29, 2010

Signed:

Printed Name: Alan Henderson
Title: CEO

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

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER, NY 14445-2408

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Omotunde Babaloa et al	:	
Application No. 11/224,496	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO WITHDRAW
Attorney Docket No. OMB-912	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Howard J. Greenwald and those attorneys/agents associated with Customer Number 37282 were not given power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until a change of address has been received from a proper party identified in 37 CFR 1.33(b)(1), (3) and (4). See 37 CFR 1.33(a)(2). While a courtesy copy of this decision is being mailed to the requested change of address, all future correspondence will be directed to the current address of record until appropriate instructions are received.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Michael L. Weiner
Biomed Solutions, LLC
150 Biomed Solutions, LLC
West Henriatta, NY 14568

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

PETER MIKESELL
HOWARD J. GREENWALD PC
349 W COMMERCIAL ST STE 2490
EAST ROCHESTER, NY 14445

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Omotunde Babalola et al	:	
Application No. 11/224,496	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO WITHDRAW
Attorney Docket No. 034405-017	:	FROM RECORD
	:	

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 5, 2005.

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

A review of the file record indicates that the power of attorney to Peter Mikesell has been revoked by the applicant 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 first below-listed address until otherwise notified by applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Buchanan Ingersoll PC
(Including Burns, Doane, Swecker & Mathis)
Post Office Box 1404
Alexandria, VA 22313

cc: Michael L. Weiner
Biomed Solutions, LLC
150 Lucus Gordon Drive, Suite 215
West Henrietta, NY 14568

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH IP SERVICES, P.C.
660 NORTH CENTRAL EXPRESSWAY
SUITE 230
PLANO TX 75074

COPY MAILED
SEP 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Cabak, et al.	:	
Application No. 11/224,508	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO WITHDRAW
Attorney Docket No. KFLX-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 June 21, 2006.

The request is **APPROVED**.

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

The request was signed by J. Richard Konneker on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

All future correspondence will be directed to the first named inventor Richard E. Cabak at the address indicated below.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RICHARD E. CABAK
2305 S. CUSTER ROAD
MCKINNEY, TX 75070

cc: MR. RICHARD CABAK
K-FLEX SYSTEMS,
DIVISION OF ALL METALS FABRICATING INC.
200 ALLENTOWN PARKWAY
ALLEN, TX 75002

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
11/224,509	09/09/2005	2186	1000	EMC2-176PUS (EMC-05-128)	4	6	2

CONFIRMATION NO. 1675

CORRECTED FILING RECEIPT

OC000000017229725

45456
RICHARD M. SHARKANSKY
PO BOX 557
MASHPEE, MA 02649

Date Mailed: 10/12/2005

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

Applicant(s)

Michael N. Robillard, Shrewsbury, MA;
Timothy Dorr, North Attleboro, MA;
Sharon Smith, Brookline, MA;

Assignment For Published Patent Application

EMC Corporation

Power of Attorney:

Richard Sharkansky--25800
John Gunther--26175
William Clark--29523
Penelope Wilson--29751
Robert Perkins--36634
Krishnendu Gupta--37977
Scott Ouellette--38573
Theodore Chen--40557
Leanne Fitzgerald--40606

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/224,509

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Data storage system having plural storage processors in a single chassis

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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VERIZON LEGAL DEPARTMENT
PATENT MANAGEMENT GROUP
1320 N. COURTHOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2525

MAILED

JAN 1 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Stephen S. Liu, et al.	:	
Application No. 11/224,515	:	DECISION GRANTING PETITION
Filed: September 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04-8010	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2416 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/224,520	09/12/2005	2834	1000	05767/009001	7	18	3

CONFIRMATION NO. 1648

CORRECTED FILING RECEIPT

OC000000017588859

22511
OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

Date Mailed: 12/06/2005

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

Applicant(s)

Junya Takekawa, Haga-gun, JAPAN;

Assignment For Published Patent Application

Showa Corporation, Haga-gun, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **32615**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2005-096367 03/29/2005

If Required, Foreign Filing License Granted: 09/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/224,520

Projected Publication Date: 10/05/2006

Non-Publication Request: No

Early Publication Request: No

Title

Attaching structure of resolver, dynamo-electric machine and attaching method of resolver

Preliminary Class

310

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOLD & RIZVI, P.A.
600 N. PINE ISLAND ROAD
SUITE 450
PLANTATION FL 33324-1311

COPY MAILED
JUL 21 2008

In re Application of	:	
Laszlo RUBY	:	
Application No. 11/224,521	:	ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 1243.0100	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 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 May 31, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 1, 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 that *prima facie* places the application in condition for allowance; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received.

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

This application is being referred to Technology Center 2859 for processing by the Examiner in the normal course of business.

Christopher Bottoli

for Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Armstrong Teasdale LLP (16463)
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Robert Lawrence Bender	: DECISION ON REQUEST FOR
Patent Number	: 7576635	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **969** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Ronald E. Lewis	: DECISION ON REQUEST FOR
Patent Number	: 7633915	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,527	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Ray Andrew Simpkin	:	
Application No. 11/224,545	:	DECISION ON PETITION
Filed: September 12, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 0074-527085	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 12, 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.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The 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 provisional 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.

The application is being forwarded to Technology Center AU 3768 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Karen Creasy

Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/224,545	09/12/2005	3768	6340	0074-527085	40	4

CONFIRMATION NO. 3024

CORRECTED FILING RECEIPT

110
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

OC000000032555918

Date Mailed: 10/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Ray Andrew Simpkin, Auckland, NEW ZEALAND;

Power of Attorney: The patent practitioners associated with Customer Number 000110

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/608,751 09/10/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/224,545**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Imaging system

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 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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MAY - 9 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:
Piper et al.	:
Serial No.: 11/224,578	: SUSPENSION OF ACTION
Filed: September 12, 2005	:
Attorney Docket No.: P06404US01 - PHI 1604C	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicants' request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

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

Applicants' petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of Simpkin	:	DECISION ON PETITION
Application No. 11/224,586	:	UNDER 37 CFR 1.78(a)(6)
Filing Date: September 12, 2005	:	
Attorney Docket No. 0074-527083	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 12, 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.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The 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 provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 3768 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven 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
11/224,586	09/12/2005	3768	2330	0074-527083	40	4

CONFIRMATION NO. 2916

CORRECTED FILING RECEIPT

110
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

OC000000032375470

Date Mailed: 10/01/2008

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)

Ray Andrew Simpkin, Auckland, NEW ZEALAND;

Power of Attorney: The patent practitioners associated with Customer Number 000110

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/608,713 09/10/2004

Foreign Applications

If Required, Foreign Filing License Granted: 09/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/224,586**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Imaging system

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 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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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	: Lee J. Heineman	: DECISION ON REQUEST FOR
Patent Number	: 7612769	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Alexander Frank	: DECISION ON REQUEST FOR
Patent Number	: 7603716	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1066** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

NOV 16 2005

In re Application of:
JOHNSON *et al.*
Serial No.: 11/224,615
Filed: September 12, 2005
Attorney Docket No.: 15436.690
For: **VERTICAL CAVITY SURFACE EMITTING LASER HAVING MULTIPLE TOP-SIDE CONTACTS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 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 statement from one of the co-inventors, James R. Biard stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

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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P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Holtzman et al.	:	DECISION ON PETITION
Application No. 11/224,623	:	TO WITHDRAW
Filed: September 12, 2005	:	FROM RECORD
Attorney Docket No. 8792/334	:	

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 23, 2007, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Brinks Hofer Gilson & Lione does not have power of attorney in the above-identified patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Further, the Change of Correspondence Address filed on January 16, 2008 was erroneously made of record and should not have been accepted since John Murray was not properly appointed as Power of Attorney.

Currently, there is no Power of Attorney in the above-identified application.

The application is currently abandoned for failure to respond to the Non Final Office action mailed January 11, 2008.

All future communications from the Office will continue to be directed solely to the above address of record until proper instructions have been received.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Thomas A. Piazza	: DECISION ON REQUEST FOR
Patent Number	: 7603544	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/224,647	09/12/2005	Mingyan Liu	PC653.06	3694

52196 7590 02/18/2010
MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER
BATES, DAVID W

ART UNIT	PAPER NUMBER
3775	

MAIL DATE	DELIVERY MODE
02/18/2010	PAPER

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

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

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of:
LIU, MINGYAN et al
Serial No.: 11/224,647
Filed: Sep. 12, 2005
Docket: PC653.06
Title: VERTEBRAL ENDPLATE PREPARATION TOOL KIT

DECISION ON PETITION

This is a decision on the petition filed on February 1, 2010 seeking withdrawal of the finality of the Office action mailed December 10, 2009. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record shows that at least claim 2 was not substantively amended in the amendment filed on August 13, 2009. Therefore, the rejection of at least claim 2 was not necessitated by the amendment filed on August 13, 2009. As such, the finality of the Office action issued on December 10, 2009 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on December 10, 2009 will be designated as non-final Office action. The period to respond to the Office action of December 10, 2009 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action will be treated as a 37 CFR § 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed December 10, 2009 is hereby withdrawn. The requested relief is granted.

Any questions regarding this decision should be directed to Special Program Examiner, Henry Yuen, at 571-272-4856.

Accordingly, the petition is **granted.**

Donald T. Hajec, Director
Technology Center 3700

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

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OFFICE OF PETITIONS

In re Application of Woodnorth et al. :
Application No. 11/224,672 :
Filing Date: September 12, 2005 :
Attorney Docket No. K0502.70049US00 :

On Application For
Patent Term Adjustment

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. §1.705(B)" filed September 28, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand two hundred six (1,206) days, not seven hundred fifteen (715) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

Mail Date: 04/21/2010

Applicant	: Douglas Woodnorth	: DECISION ON REQUEST FOR
Patent Number	: 7640845	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,672	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 200
PHILADELPHIA, PA 19130

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OFFICE OF PETITIONS

In re Application of	:	
Stan Dargue	:	
Application No. 11/224,674	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. DIA-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 31, 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 Stan Dargue 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 3711 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Michael B. CHANCELLOR, et al
Application No. 11/224,676
Filed: September 12, 2005
Attorney Docket No. 5014-052749

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, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on October 9, 2007.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BARBARA E. JOHNSON
– ATTORNEY AT LAW
555 GRANT STREET – SUITE 323
PITTSBURGH, PA 15219

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NOV 30 2005

In re Application of Stan Dargue Serial No. 11/224,686 Filed: September 12, 2005 For: WAGERING CARD GAME WITH MULTIPLE STAGES	: : : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed October 31, 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

Muskin & Cusick, LLC
1800 Callowhill Street
Philadelphia, PA 19130

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NOV 30 2005

In re Application of Stan Dargue Serial No. 11/224,687 Filed: September 12, 2005 For: ROULETTE AND DICE GAME WITH POKER HANDS	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed October 31, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Muskin & Cusick, LLC
1800 Callowhill Street
Philadelphia, PA 19130

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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OFFICE OF PETITIONS

In re Application of :
Dan Sher :
Application No. 11/224,697 :
Filed: September 12, 2005 : ON PETITION
For: SYSTEM FOR REPROCESSING :
PRE-COOKED FLOUR BASED :
FOOD PRODUCS :

This is a decision on the Petition, filed November 14, 2005, requesting that the application be accorded a filing date of September 12, 2005, including page 8 of the specification.

The application was filed on September 12, 2005. On June 21, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, page 8 of the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that page 8 of the specification was included among 12 pages of specification originally filed with the application on September 12, 2005, and was received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard, acknowledging receipt of, *inter alia*, 12 pages of specification in the above-identified application by this Office on September 12, 2005.

A review of the return-receipt postcards reveals that Applicant is correct. The postcards acknowledge receipt of, *inter alia*, 12 pages of specification in the above-identified application by this Office on September 12, 2005. Applicant has also re-filed page 8 of the specification.

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

Accordingly, the petition is granted.

The petition fee has been refunded to deposit account 16-0631 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 12, 2005, and an indication that page 8 of the specification was included among 12 pages of specification filed on September 12, 2005, using page 8 of the specification filed with the instant petition on November 14, 2005.

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

Derek L. Woods
Attorney
Office of Petitions

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3100 TOWER BLVD.,
DURHAM, NC 27707

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In re Application of	:	
Paul Andrew Miller, et al.	:	
Application No. 11/224,705	:	DECISION GRANTING PETITION
Filed: September 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 132/2/3 CON	:	

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 October 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2419 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application of :
Paul Andrew Miller et al. :
Application No. 11/224,705 :
Filed: September 12, 2005 :
Attorney Docket No. 1323/2/3 CON :

ON PETITION

This is a decision on the PETITION FOR ACCEPTANCE TO ADD TO ORIGINAL ERRONEOUSLY NOT NAMED INVENTOR IN NONPROVISIONAL APPLICATION, filed October 17, 2008, which is being treated under 37 CFR §§ 1.183, 1.48(a) and 1.47(a), to waive the statement requirement of 37 CFR 1.48(a)(2), accept the declaration lacking the signature of the non-signing joint inventor, and accord this application status under 37 CFR 1.47(a).

The petitions are **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §§1.47(a) and 1.48(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently 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).

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that

interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The request under 37 CFR 1.48(a) lacks compliance with items (2), (3) and (5).

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 set forth in § 1.17(g); and (4) a statement of the last known address of the non-signing inventor. The petition lacks item (2) set forth above.

The oath or declaration filed October 17, 2008 with the instant petition does not include a signature block for non-signing inventor Paul Miller. There is also no statement from Dean D. Glenn that the error in inventorship occurred without deceptive intention on his part. Finally, the petition does not include a consent from the assignee.

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
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Paul Andrew Miller et al.
Application No. 11/224,705
Filed: September 12, 2005
Attorney Docket No. 1323/2/3 CON

ON PETITION

This is a decision on the request for reconsideration under 37 CFR 1.48 and under 37 CFR 1.47(a), filed on January 8, 2009. The petition seeks to correct the inventorship of the above-identified application and accord status under 37 CFR 1.47 in the absence of the signatures of all the named inventors.

The petition under 37 CFR 1.48 is GRANTED.
The petition under 37 CFR 1.47(a) is GRANTED.

The application was filed naming Paul Andrew Miller, Robby Darren Benedyk, Venkataramaiah Ravishankar, and Peter Joseph Marsico as joint inventors and the oath or declaration filed with the application was properly executed by all joint inventors. After allowance but prior to issuance, petitions were filed to withdraw the application from issuance, to correct inventorship and to grant status under 37 CFR 1.47 since one of the original parties to the oath or declaration refused to cooperate with the filing of the petition to correct inventorship.

The petition under 37 CFR 1.48 filed October 17, 2008 to add Dean D. Glenn as an inventor was dismissed in a decision mailed December 11, 2008 because the oath or declaration filed October 17, 2008 did not include a signature block for non-signing inventor Paul Miller. There was also no statement from Dean D. Glenn that the error in inventorship occurred without deceptive intention on his part. Finally, the petition did not include a consent from the assignee.

37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
(3) the fee set forth in 37 CFR 1.17 (I); and
(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The request for reconsideration is accompanied by a statement of lack of deceptive intent by Dean D. Glenn, an oath executed by Dean D. Glenn and a consent of assignee.

Further, the petition bears proof that the nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48. The inventorship of this application has been changed by the addition of Dean D. Glenn.

Petitioners maintain their argument that joint inventor Paul Andrew Miller appears either unwilling or unable to cooperate with the furthering prosecution of the above-identified application and in lieu of a declaration executed by Paul Andrew Miller, seeks status under 37 CFR § 1.47(a).

A grantable petition under 37 CFR § 1.47(a) requires:
(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to joint inventor Paul Andrew Miller and that to date, he has not returned an executed copy of the oath or declaration.

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 <u>accorded Rule 1.47(a) status</u>.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter will be referred to Technology Center 2419.

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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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas Metzler et al. :
Application No. 11/224,719 :
Filed: September 12, 2005 :
Attorney's Docket No. 6398-78621 :

This is a decision on the petition filed October 21, 2005, under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of Septmeber 12, 2005, rather than the presently accorded filing date of September 13, 2005.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on September 12, 2005, pursuant to the requirements of 37 CFR 1.10.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner 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 Commissioner, 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. 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. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in section 10.1(r) of this chapter.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, 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."

Although petitioners have not provided a copy of the express mail label, the petition filed October 21, 2005, is accompanied by a United States Postal Service Express Mail Pickup Service Statement, and a copy of information found in the USPS Internet Track & Confirm Database. Unfortunately, no information identifying the Express Mail number is found on the Express Mail Pickup Service Statement but the information found on the USPS Internet Track & Confirm Database corroborates that an item bearing Express Mail Label No. EV446883904US was deposited in US Express Mail prior to September 13, 2005 since it was delivered on September 13, 2005 and therefore serves as proof that September 13, 2005 could not be the date of deposit. Thus, the petition is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is **GRANTED**.

In view of the above and given the basis for granting the petition, no petition fees are due and none have been charged.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation 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.

This matter is being referred to the Office of Initial Patent Examination for correction of the **filing date to September 12, 2005**, not September 13, 2005, and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
BARNES & THORNBURG LLP
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OFFICE OF PETITIONS

In re Application of	:	
Osamu Ikawa et al	:	
Application No. 11/224,720	:	DECISION GRANTING PETITION
Filed: September 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJI:356	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 5, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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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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CHICAGO IL 60645

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of :
Struck :
Application No. 11/224,731 : DECISION
Filed: 12 September, 2005 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 15 June, 2009, and again on 24 June, 2009, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a), alternatively, due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

NOTES:

Petitioner has failed to pay the petition fees—they are jurisdictional and are required before the petitions can be considered in substance. (A credit card form is enclosed, should Petitioner wish to pay via credit card—Petitioner is cautioned **not** to place credit card information on any other paper.)

Petitioner has submitted a Notice of Change of Address, however, the apartment number is not clear—a new form has been supplied with the petition and Petitioner should carefully complete and submit the form. As a courtesy, a copy of this decision will be sent to the address that appears to be the address Petitioner has submitted, however, until Petitioner clarifies this matter no change will be made to the address presently of record (as above).

Petitioner has petitioned with averments (in hand-written form) of unavoidable delay and unintentional delay—these are alternative pleas and are not inclusive. Forms have been enclosed and Petitioner may make a choice of which Petitioner deems appropriate.

The petition pursuant to 37 C.F.R. §1.137(a) is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the fee, reply and showing requirements (as to unavoidable delay) under the rule. Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(a).

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the fee, reply and statement requirements (as to unintentional delay) under the rule. Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

Again, 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 Notice of Non-Compliant Amendment (fees formalities) (copy enclosed) mailed on 17 December, 2008, with reply due under absent an extension of time on or before 17 January, 2009.

The application went abandoned after midnight 17 January, 2009.

The Office mailed a Notice of Abandonment on 8 June, 2009.

On 15 June, 2009, and again on 24 June, 2009, Petitioner filed, *inter alia*, a petition with no fees, but with averments of unavoidable and unintentional delay pursuant to 37 C.F.R. §1.137(a) and §1.137(b), and no apparent replies in the form of fees due and compliant amendment. Petitioner made some statements as to what might be reasons for delay, but no documentation thereof in compliance with the requirements (see below).

Petitioner has provided no proper reply to the Notice of Non-Compliant Amendment following his reply to the non-final Office action of 6 March, 2008 (copy enclosed). Moreover, in the absence of documentary support for his averments Petitioner is not in a position to satisfy the requirements of a petition averring unavoidable delay pursuant to 37 C.F.R. §1.137(a). (See: MPEP §711.03(c)(II). Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a), which provides in pertinent part:

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, *38 App. D.C. 497, 514-15 (1912)(quoting* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff, *671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."* Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*

> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(b)] was unintentional."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), 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 C.F.R. §1.137(b) was unintentional, and any terminal disclaimer required by 37 C.F.R. §1.137(c).
Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

***

With regard to unintentional delay, the Commentary provides:

***

... Unintentional Delay

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A)the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B)the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C)the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D)the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E)the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an

> application with why there was a deliberate decision not to continue the prosecution of an application.
>
> In order to expedite treatment, applicants filing a petition under 37 CFR 1.137(b) to revive an abandoned application are advised to include the statement
>
> ***

Petitioner always should consult the Office website (www.uspto.gov) to determine the then-current fee(s) applicable).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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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).

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of ununavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing Petitioner has failed to support the allegation of unavoidable delay or satisfy the petition fee and reply requirements under the regulations.

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 Petitioner has not satisfied the petition fee, reply and statement requirements of a petition pursuant to 37 C.F.R. §1.137(b).

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**; and the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc
JAMES T. STRUCK OR
DINOSAURS, TREES,
RELIGION AND GALAXIES
7333 N. RIDGE BLVD/ APT. 108B
CHICAGO IL 60645

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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CHICAGO IL 60645

MAILED

MAY 05 2010

OFFICE OF PETITIONS

In re Application of :
Struck :
Application No. 11/224,731 :
Filed: 12 September, 2005 :
Attorney Docket No. (None) :

DECISION

This is a decision on the papers considered as petitions filed on 24 September, 2009, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) ; alternatively, in light of the submission without fee, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application; and on 28 September, 2009, alternatively, a petition for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

NOTES:

Petitioner has submitted a Notice of Change of Address, however, it appears that possibly the more appropriate action would be to submit a Request for Customer Number Data Change (form enclosed and available on the Office website (www.uspto.gov) and Petitioner should carefully complete and submit the form.

Petitioner is cautioned: The change of address requested by Petitioner has been entered, however, the change entered was independent of Customer Number Data, and Petitioner now must submit the data change and once again request association of the Customer Number with the application.

Once again Petitioner has failed to pay the petition fees—the fees are required before the petitions can be considered in substance. (A credit card form is enclosed, should Petitioner wish to pay via credit card—Petitioner is cautioned **not** to place credit card information on any other paper.)

Petitioner has petitioned with averments (in hand-written form) of unavoidable delay and unintentional delay—these are alternative pleas and are not inclusive. Forms have been enclosed and Petitioner may make a choice of which Petitioner deems appropriate.

The petition pursuant to 37 C.F.R. §1.137(a) is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the fee, reply and showing requirements (as to unavoidable delay) under the rule. Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(a).

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

Petitioner failed to set forth the statements and provide the documentary evidence in support of his allegation of non-receipt at the correspondence address of record.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the fee, reply and statement requirements (as to unintentional delay) under the rule. Petitioners' attentions always are directed to the

guidance in the Commentary at MPEP §711.03(c)(II) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

Again, 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 Notice of Non-Compliant Amendment (fees formalities) (copy enclosed) mailed on 17 December, 2008, with reply due under absent an extension of time on or before 17 January, 2009.

The application went abandoned after midnight 17 January, 2009.

The Office mailed a Notice of Abandonment on 8 June, 2009.

On 15 June, 2009, and again on 24 June, 2009, Petitioner filed, *inter alia*, a petition with no fees, but with averments of unavoidable and unintentional delay pursuant to 37 C.F.R. §1.137(a) and §1.137(b), and no apparent replies in the form of fees due (excess claims) and compliant amendment. Petitioner made some statements as to what might be reasons for delay, but no documentation thereof in compliance with the requirements. The petitions were dismissed on 21 September, 2009.

On 24 September, 2009, and again on 28 September, 2009, Petitioner filed, *inter alia*, petitions with no fees, but with averments of unavoidable and unintentional delay pursuant to 37 C.F.R. §1.137(a) and §1.137(b), and no apparent replies in the form of fees due (excess claims) of and a compliant amendment. Petitioner made some statements as to what might be reasons for delay, but no documentation thereof in compliance with the requirements. (See below.) Petitioner is cautioned against handwriting changes on other papers—Petitioner is directed to the provisions of the Manual of Patent Examining Procedure (MPEP §714, et seq., including but not limited to §714.02, §714.10). It is noted that Petitioner submits a copy of what purports to be a confirmation of FAX transmission dated 18 May, 2007, however, the document to which Petitioner appears to seek to link this transmission:

- is not a confirmation of receipt, and
- bears two (2) different and unreadable application numbers.

The Rules of Practice (e.g., 37 C.F.R. §1.4(b)) and the provisions of the MPEP (e.g., §501, §502.02, §502.04) specify that every application is a separate application and separate papers must be filed in each application.

Petitioner averred, *inter alia*, non-receipt of the Office action but failed to:

- provide a copy of the application docket sheet and the due date calendar for his office; and

- make the statements of, *inter alia*: non-receipt at the correspondence address of record; search and non-discovery with a description of the docketing system and of its sufficient reliability and failed to evidence a due date docket is that for his office, making it impossible to discern whether other files wherein replies were due for non-final Office actions were reviewed to ensure that the Office action herein had not been misfiled.

Petitioner has provided no proper reply to the Notice of Non-Compliant Amendment following his reply to the non-final Office action of 6 March, 2008 (copy enclosed). Moreover, in the absence of documentary support for his averments Petitioner is not in a position to satisfy the requirements of a petition averring unavoidable delay pursuant to 37 C.F.R. §1.137(a). (See: MPEP §711.03(c)(II). Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a), which provides in pertinent part:

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, *38 App. D.C. 497, 514-15 (1912)(quoting* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff,

671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v.

Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(b)] was unintentional."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), 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 C.F.R. §1.137(b) was unintentional, and any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

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With regard to unintentional delay, the Commentary provides:

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... Unintentional Delay

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A)the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B)the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C)the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D)the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E)the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In order to expedite treatment, applicants filing a petition under 37 CFR 1.137(b) to revive an abandoned application are advised to include the statement

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Petitioner always should consult the Office website (www.uspto.gov) to determine the then-current fee(s) applicable).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

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The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was

> not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies

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[1] *See*: MPEP §711.03(c) (I)(A).

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

> and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(I) and/or (II).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of ununavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing Petitioner has failed to support the allegation of unavoidable delay or satisfy the petition fee and reply requirements under the regulations.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

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 Petitioner has not satisfied the petition fee, reply and statement requirements of a petition pursuant to 37 C.F.R. §1.137(b).

---

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**; petition pursuant to 37 C.F.R. §1.181 is **dismissed**; and the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES T. STRUCK OR
DINOSAURS, TREES,
RELIGION AND GALAXIES
7333 N. RIDGE BLVD./ APT. 108B
CHICAGO IL 60645

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Application of :
Struck :
Application No. 11/224,731 :
Filed: 12 September, 2005 :
Attorney Docket No. (None) :

DECISION

This is a decision on the papers considered as petitions filed on 10 May, 2010 for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

NOTES:

This is Petitioner's third round of petitions in this matter—and in the most recent submission Petition has informed the Office that his fee payment "will follow upon approval" and he will send if granted."

The petition fee is a requirement of the petition. If the fee is not submitted, the Office may not consider the substance of the petition.

Moreover, Petitioner has failed to submit the require reply (fees due for excess claims and a compliant amendment) under the Rule.

The process is a petition—requiring a petition, petition fee, reply, statement of unintentional delay and, where applicable, a terminal disclaimer and fee—not a negotiation.

Should Petitioner have further questions in this regard, Petitioner should consult the Office website (www.uspto.gov) and in particular the guidance in the Commentary at MPEP §711.03(c) (http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c).

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

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.

Petitioner does not appear to have satisfied the reply requirement (fees for excess claims) and petition fee requirement under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137(b) and the requirements under the Rule.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment (fees formalities) (copy enclosed) mailed on 17 December, 2008, with reply due under absent an extension of time on or before 17 January, 2009.

The application went abandoned after midnight 17 January, 2009.

The Office mailed a Notice of Abandonment on 8 June, 2009.

On 15 June, 2009, and again on 24 June, 2009, Petitioner filed, *inter alia*, a petition with no fees, but with averments of unavoidable and unintentional delay pursuant to 37 C.F.R. §1.137(a) and §1.137(b), and no apparent replies in the form of fees due (excess claims) and compliant amendment. Petitioner made some statements as to what might be reasons for delay, but no documentation thereof in compliance with the requirements. The petitions were dismissed on 21 September, 2009.

On 24 September, 2009, and again on 28 September, 2009, Petitioner filed, *inter alia*, petitions with no fees, but with averments of unavoidable and unintentional delay pursuant to 37 C.F.R. §1.137(a) and §1.137(b), and no apparent replies in the form of fees due (excess claims) of and a compliant amendment. Petitioner made some statements as to what might be reasons for delay, but no documentation thereof in compliance with the requirements. (See below.) Petitioner is cautioned against handwriting changes on other papers—Petitioner is directed to the provisions of the Manual of Patent Examining Procedure (MPEP §714, et seq., including but not limited to §714.02, §714.10). It is noted that Petitioner submits a copy of what purports to be a confirmation of FAX transmission dated 18 May, 2007, however, the document to which Petitioner appears to seek to link this transmission: is not a confirmation of receipt, and bears two (2) different and unreadable application numbers. The Rules of Practice (e.g., 37 C.F.R.

§1.4(b)) and the provisions of the MPEP (e.g., §501, §502.02, §502.04) specify that every application is a separate application and separate papers must be filed in each application. Petitioner averred, *inter alia*, non-receipt of the Office action but failed to: provide a copy of the application docket sheet and the due date calendar for his office; and make the statements of, *inter alia*: non-receipt at the correspondence address of record; search and non-discovery with a description of the docketing system and of its sufficient reliability and failed to evidence a due date docket is that for his office, making it impossible to discern whether other files wherein replies were due for non-final Office actions were reviewed to ensure that the Office action herein had not been misfiled. Petitioner provided no proper reply to the Notice of Non-Compliant Amendment following his reply to the non-final Office action of 6 March, 2008 (copy enclosed). Moreover, in the absence of documentary support for his averments Petitioner was not in a position to satisfy the requirements of a petition averring unavoidable delay pursuant to 37 C.F.R. §1.137(a). (See: MPEP §711.03(c)(II). The petitions were dismissed on 5 May, 2010.

On 10 May, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.137(b) with a statement of unintentional delay, however, without the petition fee and the required reply in the form of fees due (excess claims) and a compliant amendment.

With regard to unintentional delay, the guidance in the Commentary at MPEP §711.03(c)(II) provides:

***

... Unintentional Delay

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A)the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B)the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C)the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D)the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E)the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In order to expedite treatment, applicants filing a petition under 37 CFR 1.137(b) to revive an abandoned application are advised to include the statement

***

Petitioner always must consult the Office website (www.uspto.gov) to determine the then-current fee(s) applicable).

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(I) and/or (II).

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 Petitioner has not satisfied the petition fee and reply requirements of a petition pursuant to 37 C.F.R. §1.137(b).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

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

---

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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By hand: U. S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

GROSSMAN, TUCKER,
PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

COPY MAILED

JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Khambete, et al.	:	
Application No. 11/224,736	:	ON PETITION
Filed: 12 September, 2005	:	
Attorney Docket No. C&A061CON	:	

This is a decision on the petition filed on 4 May, 2006, under 37 C.F.R. §1.47(a).

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

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 12 September, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 4 October, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 4 May, 2006, Petitioner Steven J. Grossman (Reg. No. 35,001) filed, *inter alia*, the instant petition, an oath/declaration signed by Messrs. Griffin, Skidmore, Mehta, and Queen (for themselves and on behalf of) but without that of non-signing co-inventor Surendra Khambete, however, Petitioner failed to satisfy the statutory and regulatory requirements as to evidencing both a diligent search for a valid and reasonably represented current/last know address for the non-signing co-inventor(s) and for evidencing that a copy of the entire application were was sent to the non-signing inventor for review and signature.

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. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 02-07

Paper No: __

GROSSMAN, TUCKER,
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MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Khambete, et al. :
Application No. 11/224,736 :
Filed: 12 September, 2005 :
Attorney Docket No. C&A061CON :

ON PETITION

This is a decision on the petition filed on 4 August, 2006, under 37 C.F.R. §1.47(a).

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

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 12 September, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 4 October, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 4 May, 2006, Petitioner Steven J. Grossman (Reg. No. 35,001) filed, *inter alia*, the instant petition, an oath/declaration signed by Messrs. Griffin, Skidmore, Mehta, and Queen (for themselves and on behalf of) but without that of non-signing co-inventor Surendra Khambete, however, Petitioner failed to satisfy the statutory and regulatory requirements as to evidencing both a diligent search for a valid and reasonably

represented current/last know address for the non-signing co-inventor(s) and for evidencing that a copy of the entire application were was sent to the non-signing inventor for review and signature–and so the petition was dismissed on 5 June, 2006;

- the instant petition seeks to address the matter with the submission of a fully executed oath/declaration–thus, the instant papers suggest joinder in that it now appears that the oath/declaration has been signed by all inventors.

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

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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HOVEY WILLIAMS LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK KS 66210

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FEB 16 2010

In re Application of	:	
Dwayne Long et al	:	
Application No. 11/224,748	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 36120	:	

This is a decision on the petition, filed November 19, 2009, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the nonfinal rejection mailed April 13, 2009.

The petition states that a reply was timely submitted on October 13, 2009, to include authorization to charge for any additional fees associated with the communication to deposit account no. 19-0522. To support this assertion, the petitioner has submitted a copy of the response.

A review of Office records indicates receipt of the response received on October 13, 2009. Therefore, a three month extension of time fee is being charged to deposit account no. 19-0522 as authorized on October 13, 2009.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Further, no petition fee is required for the filing of the above petition under 37 CFR 1.181(a). The petition fee of $130.00 submitted with the petition on November 19, 2009, is being credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received October 13, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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February 9, 2010

David E. Jefferies
Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

Patent No: 7,465,710 B2
Application No: 11/224,759
Applicant: Ambikaipakan Balasubramanium, et al.
Issued: December 16, 2008
Title: **COMPOUNDS FOR CONTROL OF APPETITE, BLOOD PRESSURE, CARDIOVASCULAR RESPONES, LIBIDO, AND CIRCADIAN RHYTHM**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322 or 1.323.

Request is unclear, specific areas- col. 1, line 19, col. 2, line 58, col. 4 line 27, col. 5 lines 29 & 62, col.6, line 19, col. 7, line 63, col. 16, lines 23 & 52, col. 21, line 31 and col. 22, line15.

In view of the foregoing your entire request is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch attention Virginia Tolbert. Your new revised request can be faxed to me see information below.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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KONRAD RAYNES & VICTOR, LLP
315 S. BEVERLY DRIVE
 # 210
BEVERLY HILLS CA 90212

MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Application of	:	
David Maxwell Cannon, et al.	:	
Application No. 11/224,768	:	DECISION GRANTING PETITION
Filed: September 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SJO920050063US3	:	

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 August 10, 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.*

Express Mail Label No. EV687876700US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: :
Frank M. Willis and
Clyde L. Machamer

Examiner: N/A

Applic. No.: As yet unassigned 11-224778

Group Art Unit: N/A 1723

Filed: Herewith 9-13-05

Attorney Docket No.: 10051099-1

For: LIQUID CHROMATOGRAPHY COLUMN HAVING METAL TO METAL SEALS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1350

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)

Sir:

Pursuant to 37 CFR 1.102(c), applicant respectfully petitions the Commissioner to have the above-identified application made special without payment of fee. The basis for this Petition is that the applicant is over the age of 65 years, as can be determined upon reference to the attached Declaration of the applicant.

Respectfully submitted,

Date: September 13, 2005

Patrick J. Kelly, Ph.D.
Registration No. 34,638
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950
Telephone: 215-923-4466
Facsimile: 215-923-2189

M:\LWHITE\AGILENT TECHNOLOGIES\30740 USA\PETITIONTOMAKESPECIAL37CRF1.102(C).DOC

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

OCT 2 0 2005

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RICHARD C. CALDERWOOD
2775 NW 126TH AVE
PORTLAND OR 97229-8381

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SEP 11 2008

In re Application of	:	
Claudio R. Laraia	:	
Application Number: 11/224781	:	DECISION ON PETITION
Filing Date: 09/12/2005	:	
Attorney Docket Number: ICON008	:	
	:	

This is a decision on the petitions styled under 37 CFR 1.137(a) and (b),[1] filed on July 21, 2008, which are 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(a) or (b)." This is not a final agency decision.

---

[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 Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

This application became abandoned on November 23, 2007, for failure to timely file a proper reply to the final Office action mailed on August 22, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. On March 20, 2008, Notice of Abandonment was mailed.

The petition under 37 CFR 1.137(a) cannot be treated on the merits because the petition fee has not been paid. It is noted that payment of the fee for the petition under 37 CFR 1.137(b) was provided, but no check or deposit account to charge the fee for the petition under 37 CFR 1.137(a) was provided. The Office will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee. See MPEP 711.03(c).

With regards to the petition under 37 CFR 1.137(b), the petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on July 21, 2008, does not place the case in *prima facie* condition for allowance.

Petitioner should file a proper reply with any renewed petition.

A copy of the examiner's Advisory Action is enclosed for petitioner's reference.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/224,781	Applicant(s) LARAIA, CLAUDIO R.	
	Examiner CARLOS AMAYA	Art Unit 2836	

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

THE REPLY FILED 21 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Michael J Sherry/
Supervisory Patent Examiner

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the arguments, it is respecfully submitted that the combination of APA and Krieger would have yielded a system with an AC outlet in the front panel, since it would not have been logical to put an AC outlet on a side of APA in-dash system, because it wouldn't be easily accessible. One of ordinary skill in the art would appreciate that in-dash devices have all of their features acccessible on the front panel. Kreiger suggests in paragraph 0005 that electronic devices are incorporated into the vehicle (in-dash) and the APA discloses an in-dash system; thus, it would have been obvious to modify the APA to include the AC outlet in the APA in-dash system as taught by Krieger for the reasons discussed above.

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OCT 22 2008

OFFICE OF PETITIONS

In re Application of :
Claudio R. Laraia :
Application Number: 11/224781 : DECISION ON PETITION
Filing Date: 09/12/2005 :
Attorney Docket Number: ICON008 :
:

This is a decision on the renewed petition filed on October 7, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on November 23, 2007, for failure to timely file a proper response to the final Office action mailed on August 22, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on March 20, 2008. The petition filed on July 21, 2008, was dismissed on September 11, 2008.

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

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

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

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

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

The Notice of Appeal filed October 7, 2008, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center Art Unit 2836 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph Michael Manahan	:	
Application No. 11/224,789	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO WITHDRAW
Attorney Docket No. 23667.36	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 5, 2007.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

There are no pending Office actions 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: TODD MATTINGLY
KING & SPALDING, LLP
1100 LOUISANA, SUITE 4000
HOUSTON, TX 77002

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Hiroyuki Ishii	: DECISION ON REQUEST FOR
Patent Number	: 7570577	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,794	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Shigeyuki Ozawa	:	
Application No. 11/224,829	:	ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. FS.20234US0A	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed March 18, 2008.

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

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

The above application became abandoned for failure to file a reply to the final Office action mailed August 20, 2007. The Office action set a shortened statutory period for reply of three (3) months. Applicant filed an amendment, made timely with a three month extension of time, on February 20, 2008. However, in an Advisory Action mailed March 18, 2008, the Examiner informed Applicant that the amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned by operation of law on February 21, 2008. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petition to Withdraw the Holding of Abandonment under 1.181:

Petitioner argues that the amendment included a general authorization to charge any additional fees to his deposit

account, and as such should have been treated as a "conditional" RCE as provided for in MPEP 706.07(a). That section states:

> If a submission is accompanied by a "conditional RCE" **and** payment of the RCE fee under 37 CFR 1.17(e) (i.e. an authorization to charge the 37 CFR 1.17(e) fee to a deposit account in the event that the submission would not otherwise be entered), the Office will treat the "conditional" RCE and payment as if an RCE and payment of the fee set forth in 37 CFR 1.37(e) had been filed (emphasis added).

Petitioner goes on to states that while the MPEP does not give a definition of what constitutes a "conditional" RCE, the above section gives an example of a "conditional" RCE as being an authorization to charge a deposit account.

Petitioner's argument has been considered, but is not persuasive. MPEP 706.07(a) is clear that petitioner needs to file both a "conditional" RCE **and** the RCE fee. Here, applicant did not submit a "conditional" RCE, but rather only submitted a deposit account authorization. An authorization to charge a deposit account is a manner in which an applicant may submit the RCE fee. An applicant would still need to submit a "conditional" RCE.

Petition to Revive under 1.137(b):

With the instant petition, applicant submitted the required reply in the form of an RCE (together with the submission in the form of an amendment), made the proper statement of unintentional delay, and included an authorization to charge the petition fee to his deposit account.

The petition fee of $1540 and the RCE fee of $810 have been charged to Deposit Account No. 11-1410, as authorized.

The matter is being forwarded to Group Art Unit 3748 for consideration of the Amendment filed March 18, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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R'SUE POPOWICH CARON
2750 ELMWOOD AVE.
BERKELEY CA 94705

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of
Jeffrey D. Wyatt, et al.
Application No. 11/224,830
Filed: September 13, 2005
Attorney Docket No. BEI-002

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 30, 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, "employed at company that doesn't allow me to do outside work without approval", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. JEFFREY WYATT
C/O KUWAIT PNZ POUCH
PO BOX 5095
BELAIRE, TX 77402

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

R'SUE POPOWICH CARON
2750 ELMWOOD AVE.
BERKELEY CA 94705

In re Application of

Jeffrey D. Wyatt, et al.
Application No. 11/224,830
Filed: September 13, 2005
Attorney Docket No. BEI-002

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 **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 R'Sue P. Caron on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There is an outstanding Office action mailed June 15, 2007 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: MR. JEFFREY WYATT
C/O KUWAIT PNZ POUCH
PO BOX 5095
BELAIRE, TX 77402

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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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/224,830	09/13/2005	Jeffrey D. Wyatt	BEI-002

CONFIRMATION NO. 3900

POWER OF ATTORNEY NOTICE

36188
R'SUE POPOWICH CARON
2750 ELMWOOD AVE.
BERKELEY, CA 94705

OC000000026644618

Date Mailed: 11/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2007.

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

/amwise/

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

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MAIL

NOV 02 2005

Director's
Group 3700

Dan M. DelaRosa
345 East 80th St., Suite 27H
New York, NY 10021

In re Application of :
Robert A. Demars :
Serial No.: 11/224,837 :
Filed: September 12, 2005 : DECISION ON PETITION

For: **BARBECUE GRILL WITH FOLDING SHELVES**

This is in response to applicants' Petition filed October 13, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

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

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

Should there be any questions with regard to this letter please contact Richard A. Bertsch, by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 272-8300.

Richard A. Bertsch

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

11/2/05

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BAKER BOTTS LLP
2001 ROSS AVE STE 600
DALLAS, TX 75201

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OCT 2 4 2008

OFFICE OF PETITIONS

In re Patent No. 7,379,259	:	
Issued: May 27, 2008	:	
Application No. 11/224,882	:	ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 063034.0118	:	

This is a decision on the petition under 37 CFR 1.182, filed October 3, 2008, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

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MAILED
FROM DIRECTORS OFFICE

NOV 22 2005

TECHNOLOGY CENTER 3600

KEVIN MARK KLUGHART
2516 Lillian Miller Parkway
Suite 115
Denton, TX 76210-7205

In re application of Kenneth Alexander Fomby Application No. 11/224,884 Filed: September 12, 2005 For: HAY FEEDER	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on September 29, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **DISMISSED**.

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

The evidence submitted with the petition is an illegible copy of a birth certificate; specifically the person's name and the date of birth can't be determined.

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

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

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

RAR/pav: 11/04/05

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KEVIN MARK KLUGHART
2616 LILLIAN MILLER PARKWAY, SUITE 115
DENTON, TX 76210-7205

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Alexander Fomby	:	
Application No. 11/224,884	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. KAF-2005-001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed December 6, 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 include three copies of Inventor Kenneth Alexander Fomby'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 3643 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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Shumaker & Sieffert. P.A.
1625 Radio Drive, Suite 300
Woodbury, MN 55125

Mail Date: 04/20/2010

Applicant	: George W. Blattner	: DECISION ON REQUEST FOR
Patent Number	: 7664961	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,889	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1192** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Bryan Atsatt	: DECISION ON REQUEST FOR
Patent Number	: 7644403	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PIERCE ATWOOD
ONE NEW HAMPSHIRE AVE STE 350
PORTSMOUTH, NH 03801

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OFFICE OF PETITIONS

In re Application of	:	
WUERSCH, et al.	:	
Application No. 11/224,894	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. IST-2001US01	:	FROM RECORD
	:	

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 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 request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JEFFREY JOHNSON**
WILMER CULTER PICKERING HALE & DORR
60 STATE STREET
BOSTON, MA 02109

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WOOD HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of	:	
William F. Getgey et al	:	
Application No. 11/224,896	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. GET-07A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 18, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from Inventor William F. Getgey 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 3754 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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	: Peter J. Burke	: DECISION ON REQUEST FOR
Patent Number	: 7645482	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **945** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JDI Patent- KLA-Tencor Corp. Joint Customer Number
Joshua D. Isenberg/ JDI Patent
809 Corporate Way
Fremont, CA 94539

Mail Date: 04/21/2010

Applicant	: Gildardo R. Delgado	: DECISION ON REQUEST FOR
Patent Number	: 7652430	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/224,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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SEP 0 5 2006
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In re Application of :
Pugsley, et al. :
Application No. 11/224,952 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No. 278488US0X :

This is a decision on the petition under 37 CFR 1.182 to change the order of inventors in the above-cited application.

The petition is **granted**.

The order of the inventors for the above-cited application is now:

1. Anthony Pugsley
2. Carine Robichon
3. Dominique Vidal-Ingigliardi

A corrected filing receipt is enclosed.

The application file is being forwarded to Technology Center 1600, GAU 1645 for further processing

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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
11/224,952	09/14/2005	1645	2230	278488US0X	44	33	4

CONFIRMATION NO. 2667

CORRECTED FILING RECEIPT

OC000000020246302

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

Date Mailed: 08/30/2006

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)

Anthony Pugsley, Paris, FRANCE;
Carine Robichon, Paris, FRANCE;
Dominique Vidal-Ingigliardi, Ermont, FRANCE;

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

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/623,860 11/02/2004
and claims benefit of 60/609,241 09/14/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/224,952

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for identifying antimicrobial molecules which interfere with apolipoprotein N-acyltransferase activity

Preliminary Class

530

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 14 2008

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

In re Application of	:	
Pugsley et al	:	
Serial No.: 11/224,952	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No.: 278488US0X	:	

This letter is in response to the Petition under 37 C.F.R. 1.181, filed December 3, 2007, requesting that the Technology Center Director relax the exclusive conformance requirement of 37 CFR 1.821(b).

BACKGROUND

A review of the application shows that the examiner issued a requirement to comply with the sequence rules on November 2, 2007, to which Applicant replied by replacing Figures 9 and 10 containing sequences with new Figures 9 and 10 not containing the sequences.

These actions by petitioner effectively render the petition moot but a decision seems appropriate nevertheless.

DISCUSSION

As petitioner points out, the relevant section of the MPEP is 2422.02. Where that section refers to relaxed exclusive conformance requirement for drawings, it is referring to relaxing only the format requirements of 37 CFR 1.821, particularly the requirement for use of three letter amino acid abbreviations to permit showing of an alignment, for example, or for any other feature that can only be shown effectively by reference to a drawing figure.

The final sentence of MPEP 2422.02 states, "It should be noted, though, that when a sequence is presented in a drawing, regardless of the format or the manner of presentation of that sequence in the drawing, the sequence must still be included in the Sequence Listing and the sequence identifier ("SEQ ID NO: X") must be used, either in the drawing or in the Brief Description of the Drawings."

DECISION

The petition is **DENIED** as moot and for the reasons set forth above.

Should there be any questions regarding this decision, please contact Training Quality Assurance Specialist Robert A. Wax, by mail addressed to Director, Technology Center 1600, P. O. Box 1450, Alexandria, VA 22313-1450, or by telephone at (571) 272-0623 or by Official Fax at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 9, 2009

TO SPE OF : ART UNIT 2853
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/224993 Patent no. 7377631

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

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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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: No-Jun Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7636332	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,008	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **909** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

OCT 28 2009

OFFICE OF PETITIONS

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

In re Application of :
Franz Josef Summerer :
Application No. 11/225,102 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No. 1690.1022

This is a decision on the petition, filed October 27, 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 October 20, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Stefan Liebheit	: DECISION ON REQUEST FOR
Patent Number	: 7578222	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 05/11/2010

Applicant	: Brandon J. Blodget	: DECISION ON REQUEST FOR
Patent Number	: 7640526	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/225,225	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **549** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
11/225,228	09/13/2005	Donald Da-Jen Huang	CL2784USNA	3479

23906 7590 05/06/2009
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
PEPITONE, MICHAEL F

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
05/06/2009	ELECTRONIC

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

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

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

PTO-Legal.PRC@usa.dupont.com

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

In re Application of Arthur et al.
Serial No.: 11/225,228
Filed: September 13, 2005

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

Title: MATERIALS LEADING TO IMPROVED DENTAL COMPOSITES AND DENTAL COMPOSITES MADE THEREFROM

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED) filed September 5, 2008 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Samuel David Arthur and Andrew P. Stamegna from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Mark Eashoo
Supervisory Patent Examiner
Art Unit 1796, Technology Center 1700

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
Barley Mill Plaza 25/1122B
4417 Lancaster Pike
Wilmington, DE 19805

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Martinez	:	
Application No. 11/225,242	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO WITHDRAW
Attorney Docket No. 17385-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the attorney no longer legally represents the assignee, does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

OIPE
FEB 21 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Donald H. Chace	Examiner:	Not yet assigned
Serial No.:	11/225,243	Art Unit:	1743
Filing Date:	September 13, 2005	Attorney Docket:	2428.031C
Title:	METHOD FOR INTERPRETING TANDEM MASS SPECTROMETRY DATA FOR CLINICAL DIAGNOSIS		

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

ATTN: TC 2800 SPECIAL PROGRAM EXAMINER

Sir:

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

Applicant of the above-identified patent application, which has not yet received any substantive examination by an Examiner, hereby petitions to make this application special pursuant to M.P.E.P. § 708.02, Subsection II, "Infringement", in order to advance examination as provided for in 37 C.F.R. § 1.102.

This petition is with respect to all pending claims. These claims are directed to a method for interpreting mass spectral data for clinical diagnosis. Applicant alleges that:

(A) There is an infringing method in use;

(B) A rigid comparison of the alleged infringing method with the claims of the application has been made and some of the claims are unquestionably infringed; and

(C) A careful and thorough search of the prior art has been made or been caused to be made.

A copy of each of the references most closely related to the subject matter encompassed by the claims is being filed herewith in an Information Disclosure Statement.

02/22/2006 SHASSEN1 00000052 11225243
01 FC:1464 130.00 OP

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAR 14 2006

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

Mail Date: 04/21/2010

Applicant	: Thierry Lestable	: DECISION ON REQUEST FOR
Patent Number	: 7594161	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,262	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **983** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JAN 25 2010

DELPHI TECHNOLOGIES, INC
LEGAL STAFF - M/C 483-400-402
5725 DELPHI DRIVE
PO BOX 5052
TROY MI 48007

In re Application of	:	
Todd P. OMAN	:	
Application No. 11/225,288	:	DECISION ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. DP-313140	:	

This is a decision on the petition, filed June 10, 2009, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

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

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the Notice mailed November 12, 2008. Applicant has (1) informed the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy o the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attest on a personal knowledge basic or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending nits report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

Telephone inquiries concerning this decision should be directed to Tammara Peyton at 571-272-6052 or in her absence, the undersigned at 571-272-7099.

This application is being referred to the Office of Patent Application Processing for further processing.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN G. RUDISILL
JENKENS & GILCHRIST,
A PROFESSIONAL CORPORATION
225 W. WASHINGTON, STE. 2600
CHICAGO IL 60606-3418

In re Application of	:	
Robert F. Dvorak et al	:	
Application No. 11/225,293	:	ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. 47181-00301USPT	:	

This is a decision on the petition, filed April 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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.

---

[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).

The examiner of Technology Center AU 2858 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
NIXON PEABODY LLP
225 WEST WASHINGTON STREET, SUITE 2600
CHICAGO, IL 60606-3418

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O BOX 10500
McLean, VA 22102

Mail Date: 04/21/2010

Applicant	: Alfred E. Mann	: DECISION ON REQUEST FOR
Patent Number	: 7602310	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland CA 94612-0250

10/16/09

In re Application of:
ROWE, RICHARD E. et al
Serial No.: 11/225,299
Filed: Sep. 12, 2005
Docket: IGT1P243/P001048-001
Title: UNIVERSAL CASINO BONUSING SYSTEMS AND METHODS

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR § 1.144

This is a decision on the petition filed September 23, 2009 under 37 CFR 1.181 requesting withdrawal of the restriction requirement of June 24, 2009. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is **granted.**

In the petition, petitioner in essence argues that the examiner failed to show the claimed inventions are distinct in the restriction requirement of March 24, 2009. The examiner's assertion of distinctness was not supported by any reasons and/or examples to support the conclusions as required by MPEP §803. Petitioner also argues that the amended claims filed with the RCE on March 5, 2009 simply specify how the claimed bonusing is orchestrated or implemented. The additional recitations may add detail; they are not of a different species than the original recitations, but of the same nature as the claims prior to amendment. Therefore, the restriction is in error and the examiner should have treated all pending claims on the merits.

A review of the restriction requirement of June 24, 2009 shows that examiner provided no explanation as to why the previous presented claims of September 11, 2008 and the amended claims of March 5, 2009 are independent or distinct. Therefore, the restriction requirement promulgated on March 5, 2009 does not comply with MPEP 802.01[1] and can not be sustained.

[1] 802.01 [R-5] Meaning of "Independent" and "Distinct" 35 U.S.C. 121 quoted in the preceding section states that the Director may require restriction if two or more "independent and distinct" inventions are claimed in one application. In 37 CFR 1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application. This raises the question of the inventions as between which the Director may require restriction. This, in turn, depends on the construction of the expression "independent and distinct" inventions. "Independent", of course, means not dependent>, or unrelated<. If "distinct" means the same thing, then its use in the statute and in the rule is redundant. If "distinct" means something different, then the question arises as to what the difference in meaning between these two words may be. The hearings before the committees of Congress considering the codification of the patent laws indicate that 35 U.S.C. 121: "enacts as law existing practice

In finding petitioner's points of argument persuasive, the restriction of March 5, 2009 is hereby withdrawn. The examiner is directed to either totally withdraw the restriction and examine all pending claims 1-17 and 21-22 or re-mail a complete restriction setting forth reasons and examples of distinctness of each invention in accordance with MPEP 802.01.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3714 for the examiner's consideration of the applicant response filed on September 23, 2009 and preparation of an Office action consistent with this decision. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

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with respect to division, at the same time introducing a number of changes." The report on the hearings does not mention as a change that is introduced, the inventions between which the Director may properly require division. The term "independent" as already pointed out, means not dependent>, or unrelated<. large number of inventions between which, prior to the 1952 Act, division had been proper, are dependent inventions, such as, for example, combination and a subcombination thereof; as process and apparatus used in the practice of the process; as composition and the process in which the composition is used; as process and the product made by such process, etc. If section 121 of the 1952 Act were intended to direct the Director never to approve division between dependent inventions, the word "independent" would clearly have been used alone. If the Director has authority or discretion to restrict independent inventions only, then restriction would be improper as between dependent inventions, e.g., the examples used for purpose of illustration above. Such was clearly not the intent of Congress. Nothing in the language of the statute and nothing in the hearings of the committees indicate any intent to change the substantive law on this subject. On the contrary, joinder of the term "distinct" with the term "independent", indicates lack of such intent. The law has long been established that dependent inventions (frequently termed related inventions) such as used for illustration above may be properly divided if they are, in fact, "distinct" inventions, even though dependent. I. INDEPENDENT The term "independent" (i.e., **>unrelated<) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used in practicing the process are independent inventions. See also MPEP § 806.06 and § 808.01. II. > RELATED BUT< DISTINCT Two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc. In this definition the term related is used as an alternative for dependent in referring to inventions other than independent inventions. Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art). See MPEP § 806.05(c) (combination and subcombination) and § 806.05(j) (related products or related processes) for examples of when a two-way test is required for distinctness. It is further noted that the terms "independent" and "distinct" are used in decisions with varying meanings. All decisions should be read carefully to determine the meaning intended.

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NOV 0 9 2005

TECHNOLOGY CENTER 3600

WILLIAM W. BODNAR
LAW OFFICE OF WILLIAM BODNAR
1074 EAST AVE. SUITE F
CHICO, CA 95926

In re application of	:	**DECISION ON PETITION**
Berle G. Blehm	:	**TO MAKE SPECIAL**
Application No. 11/225,308	:	**(APPLICANT'S AGE)**
Filed: September 12, 2005	:	
For: PORTABLE TETHER ANCHOR/LADDER ROOF ANCHOR		

This is a decision on the petition submitted on September 12, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/slb: 10/26/05

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

Mail Date: 07/27/2010

Applicant	: Steven Monroe Penn	: DECISION ON REQUEST FOR
Patent Number	: 7651227	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/225,327	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1021** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/225,347	09/13/2005	Peter L. Szekely	AD7124USNA	5477

7590 10/24/2007
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
ZIMMER, MARC S

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
10/24/2007	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Tammy J. Kanter

Patent Publication Branch
Office of Data Management

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Adjustment date: 10/24/2007  KKING1
09/23/2005 SDENBOB1 00000007 500421   11225347
02 FC:1111        500.00 CR
04 FC:1202        350.00 CR
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FORM PET651G (Rev. 08/07)

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

Mail Date: 04/21/2010

Applicant	: Muhammad R. Hussain	: DECISION ON REQUEST FOR
Patent Number	: 7613813	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,373	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1059** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Mail Date: 04/21/2010

Applicant	: Daniel Abrams	: DECISION ON REQUEST FOR
Patent Number	: 7571423	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,378	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **586** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
John B. Squicciarini	:	DECISION ON PETITION
Application No. 11/225,381	:	TO WITHDRAW
Filed: September 12, 2005	:	FROM RECORD
Attorney Docket No. GYNTEC.002A	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 4, 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 Terry K. Tullis on behalf of all attorneys of record who are associated with customer No. 20995.

All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Currently, there is an outstanding Office action mailed July 10, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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SHOOK, HARDY & BACON L.L.P.
(INTERMEC TECHNOLOGIES CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD.
KANSAS CITY, MO 64108

Mail Date: 04/21/2010

Applicant	: Johanas L. Starr	: DECISION ON REQUEST FOR
Patent Number	: 7633550	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **984** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Richard L. Vandlen	: DECISION ON REQUEST FOR
Patent Number	: 7601827	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,400	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **497** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MORRISON & FOERSTER LLP
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PALO ALTO, CA 94304-1018

Mail Date: 05/18/2010

Applicant : Richard L. Vandlen
Patent Number : 7601827
Issue Date : 10/13/2009
Application No : 11/225,400
Filed : 09/12/2005

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

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

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

The patent term adjustment has been determined to be **536** 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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Yuri Kateshov
Law Offices of Yuri Kateshov
174 Ferndale Rd
Scarsdale NY 10583

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OFFICE OF PETITIONS

In re Application of :
Kleyman et al. :
Application No. 11/225414 :
Filing or 371(c) Date: 09/13/2005 :
Attorney Docket Number: :
GIK.P3 : ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed May 1, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 29, 2005. The Notice required additional claim fees, and set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned November 30. A Notice of Abandonment was mailed April 16, 2007.

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

This application is being referred to the Office of Initial Patent Examination ("OIPE") for processing of the reply to the Notice in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE NY 11553

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OFFICE OF PETITIONS

In re Application of	:	
Kleyman et al.	:	
Application No. 11/225,414	:	DECISION ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. 2058-2	:	

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

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed January 11, 2008. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 12, 2008. A Notice of Abandonment was mailed on 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 a reply to the restriction requirement, (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business on the reply received

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

KING & SCHICKLI PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

COPY MAILED

FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Viltrakis, et al.	:	
Application No. 11/225,430	:	ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 1364-001	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 12, 2009

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the Notice to File Corrected Application Papers mailed March 30, 2007. This Notice set a non-extendable period for reply of 30 days. No reply having been received, the application became abandoned on April 30, 2007. The Office mailed a Notice of Abandonment on May 22, 2007.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of April 29, 2007, nor has petitioner stated that such a record does not exist. If that is the case, then petitioner must submit other evidence as set forth above.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

---

[1] MPEP 711.03(c).

A copy of the Notice to File Corrected Application Papers is enclosed.

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

Enc: copy of March 30, 2007 Notice (2 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/225,430	09/12/2005	Vytenis J. Viltrakis	1364-001	2893

1009 7590 03/30/2007
KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

EXAMINER
IZAGUIRRE, ISMAEL

ART UNIT	PAPER NUMBER
3765	

MAIL DATE	DELIVERY MODE
03/30/2007	PAPER

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

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. : 11225430
Applicant : Viltrakis
Filing Date : 9/12/05
Date Mailed : 3/30/07

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

The oath or declaration is defective. It does not identify the mailing address of the second inventor. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee,Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

Don Fairchild
Office of Patent Publication
Phone: 703-308-9250, ext. 126

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KING & SCHICKLI PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

MAILED

APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Viltrakis, et al.	:	
Application No. 11/225,430	:	ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 1364-001	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 31, 2009.

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

The above-identified application became abandoned for failure to timely file a response to the Notice to File Corrected Application Papers mailed March 30, 2007. This Notice set a non-extendable period for reply of 30 days. No reply having been received, the application became abandoned on April 30, 2007. The Office mailed a Notice of Abandonment on May 22, 2007. Applicants filed a petition to withdraw the holding of abandonment on January 12, 2009, which was dismissed in a decision mailed on February 6, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a reply to the Notice to File Corrected Application Papers (a 37 CFR 1.63 declaration).

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANGER SHIA
PATENT OFFICE OF BANG SHIA
102 LINDENCREST CT
SUGAR LAND TX 77479-5201

MAILED

MAY 28 2010

OFFICE OF PETITIONS

In re Application of :
Hua-Song Zhou :
Application Number: 11/225459 : ON PETITION
Filing Date: 09/13/2005 :
Attorney Docket Number: 15877 B :
(SW-971162) :

This is a decision in response to the petition under 37 CFR 1.137(b)[1] filed on March 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 10, 2007, for failure to submit a timely response to the non-final Office action mailed on April 9, 2007, which set a three (3) month statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on November 1, 2007.

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

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

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

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

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

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.[2] 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 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.[3]

Receipt of the amendment filed on March 4, 2010 is acknowledged.

Receipt of the power of attorney and change of correspondence address filed on March 4, 2010 is acknowledged. All correspondence will be mailed to the new address of record.

The application will be referred to Technology Center Art Unit 3751 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

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

[3] 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).

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 J. BERES
THE TRANE COMPANY
PATENT DEPARTMENT - 12-1
3600 PAMMEL CREEK ROAD
LA CROSSE WI 54601

COPY MAILED

JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Hancock :
Application No. 11/225,471 : DECISION ON PETITION
Filed: September 13, 2005 :
Attorney Docket No. TIR 2951 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2007, 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 May 10, 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 August 11, 2007. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, drawings, oath and specification, (2) the petition fee of 1540.00, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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, $1,050.00 will be credited to deposit account no. 20-1434 .

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

This application is being referred to Technology Center AU 3745 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

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.

CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO TX 75024

MAILED

APR 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Stephen S. Hancock	:	
Application No. 11/225,471	:	DECISION ON PETITION
Filed: September 13, 2005	:	PURSUANT TO
Attorney Docket No.: 4236-00700	:	37 C.F.R. § 1.181(A)
Title: CENTRIFUGAL BLOWER FOR AIR HANDLING EQUIPMENT	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on March 24, 2009, 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 issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 10, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 11, 2009. A Notice of Abandonment was mailed on March 6, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

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. 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.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.** It is expected that the record would include, but not be limited to, the application number, attorney

> docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> Emphases added.

ANALYSIS

With this petition, Petitioner has stated that the notice of November 10, 2008 was not received at the correspondence address of record,[3] has indicated that a search of the file jacket and the application contents indicates that the relevant Office communication was not received,[4] and has provided a copy of the

3 Petition, page 1.
4 Id. at 1 - 2.

docket report that is associated with this individual application.[5]

Petitioner's assertion of non-receipt has not been adequately supported, and as such, the record does not support a finding that the docketing system is sufficiently reliable, as will be now pointed out.

First, Petitioner has indicated

> "…all correspondence received from the U.S. Patent Office is opened and date stamped by the Docketing Department. The Docketing Department then enters the correspondence and any relevant deadlines into the computerized docket system and attaches the correspondence and updated docket record to the application file jacket."[6]

However, the petition is silent as to how this computerized docket system serves to ensure that the correspondence recorded therein is responded to in a timely manner. **Does this computer-based docketing software program generate reports on a periodic basis? If so, are these reports distributed to the responsible attorneys/agents? Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorneys/agents?**

Secondly, Petitioner has characterized the copy of the docket report that is associated with this individual application as "a copy of the computerized master docket record,"[7] but **this is not a master docket record/report.** As set forth in the portion of the MPEP that has been reproduced above, a master docket report is a report that shows all replies that the firm has docketed for a particular date in the future (typically three months from the mail date of the nonreceived Office action, although some firms will docket items for the maximum extendable period for reply), *as opposed to a report that shows the replies that have been docketed for a particular application.*

On renewed petition, **Petitioner should either provide a copy of the master docket, or, if no such master docket exists, Petitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar, or; reminder system.** As noted above, the individual docket record for the

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5 Attachment entitled "Patent File History."
6 Petition, page 2.
7 Id.

application in question has been provided with this petition.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not 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.

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/
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).

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.

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MAY 07 2009

OFFICE OF PETITIONS

CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO TX 75024

In re Application of	:	
Stephen S. Hancock	:	
Application No. 11/225,471	:	DECISION ON RENEWED
Filed: September 13, 2005	:	PETITION PURSUANT TO
Attorney Docket No.: 4236-00700	:	37 C.F.R. § 1.181(A)
Title: CENTRIFUGAL BLOWER FOR AIR HANDLING EQUIPMENT	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on April 21, 2009, 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 issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 10, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 11, 2009. A Notice of Abandonment was mailed on March 6, 2009.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

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. 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.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney

docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action (emphasis added). If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 24, 2009

With the original petition, Petitioner indicated that the notice of November 10, 2008 was not received at the correspondence address of record, and that a search of the file jacket and the application contents indicates that the relevant Office communication was not received. Petitioner further provided a copy of the docket report that is associated with this individual application.

The original petition was dismissed via the mailing of a decision on April 14, 2009, for failure to adequately describe the docketing system, and for failure to provide a copy of the master docket.

With this renewed petition, Petitioner has indicated that the computer-based docketing software program is used to generate reports on a weekly basis,[3] and that these reports distributed to the responsible attorneys/agents.[4] Petitioner has further indicated that periodic reminders are generated prior to the due dates,[5] and these reminders are distributed to the responsible attorneys/agents.[6]

Moreover, Petitioner has included a copy of the firm's master docket. However, **the document has been heavily redacted to such a degree that all relevant fields have been completely blackened out, and as such, the Office cannot determine the contents thereof.**

On second renewed petition, **Petitioner should provide a copy of the master docket that has not been redacted to the point that all relevant information is obscured.**

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 "Second 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.

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] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

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3 Renewed petition, page 5.
4 Id.
5 Id. at 4.
6 Id. at 5.
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.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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

---

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).

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

Conley Rose, P.C.
5601 Granite Parkway, Suite 750
Plano, TX 75024

MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Stephen S. Hancock	:	
Application No. 11/225,471	:	DECISION ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. 4236-00700	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 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 February 10, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 10, 2008. Accordingly, the date of abandonment of this application is February 11, 2009. A Notice of Abandonment was mailed on March 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

Mail Date: 04/20/2010

Applicant	: Yan Wang	: DECISION ON REQUEST FOR
Patent Number	: 7571369	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,479	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **987** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

MAILED

JUN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary D. Shives, et al.	:	
Application No. 11/225,491	:	ON PETITION
Filed: September 9, 2005	:	
Attorney Docket No. P1106-1/N2605	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 9, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2871 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.

T. Williams

Terri Williams
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

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald H. Chace	:	
Application No. 11/225,501	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2428.031A	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(c), filed February 21, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

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

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

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

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

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

This matter is being referred to Technology Center AU 1743 for action on the merits commensurate with decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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APR 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Alfred Owen	:	DECISION ON PETITION
Application No. 11/225,503	:	TO MAKE SPECIAL UNDER
Filed: September 14, 2005	:	37 CFR 1.102(c)(1)
For: ROAD BARRIER	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 14, 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 petition includes a copy of a driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3671 to await a reply to the final Office mailed March 7, 2006.

Wan Laymon

Wan Laymon
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

SHUGHART THOMSON & KILROY, PC
120 WEST 12TH STREET
KANSAS CITY MO 64105

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DEC 09 2008

In re Application of	:	
FALBO, MICHAEL G.	:	
Application No. 11/225,510	:	DECISION ON PETITION
Filed: 09/13/2005	:	
Attorney Docket No. MED070/113478	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 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 May 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 16, 2007. On November 27, 2007, the Office mailed a Notice of Abandonment.

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

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

This application is being referred to Technology Center AU 3673 for appropriate action by the Examiner in the normal course of business on the replies received on August 26, 2008.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 25 2006

OFFICE OF PETITIONS

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

In re Application of :
Buono, et al. :
Application No. 11/225,519 : DECISION ON PETITION UNDER
Application Filing Date: September 13, 2005 : 37 CFR 1.137(f)
Attorney Docket No. 59328.P2

This is a decision on the petition under 37 CFR 1.137(f), filed July 31, 2006, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 3600, GAU 3643 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

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

HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

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JUL 0 6 2006
OFFICE OF PETITIONS

In re Application of	:
Begin, et al.	: DECISION REFUSING STATUS
Application No. 11/225,521	: UNDER 37 CFR 1.47(a)
Filed: September 13, 2005	:
Dkt. No.: 20108/10005	:
For: MODULAR VEHICLE SEAT	:
HAVING WATER-PERMEABLE SEATING	:
SURFACES	:

This decision is in response to the petition under 37 CFR 1.47(a), filed May 12, 2006.

The petition is **DISMISSED**.

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

The above-identified application was filed September 13, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed October 12, 2005 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirements (1) and (2) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventor received the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to sign the declaration for the above-identified application.

The petition establishes that the non-signing inventor received a copy of a declaration relating to the instant petition, but does not establish that the inventor received a complete copy of the application papers and thereafter refused to execute the declaration.

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 inventor.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor(s) was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor(s) indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor(s) receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. *See*, MPEP 409.03(d).

As to item (2), the declaration submitted is not acceptable as the declaration submitted contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

In re Application of	:
Begin, et al.	: DECISION GRANTING STATUS
Application No. 11/225,521	: UNDER 37 CFR 1.47(a)
Filed: September 13, 2005	:
Atty. Dkt. No.: 20108-10005	:
For: MODULAR VEHICLE SEAT	:
HAVING WATER-PERMEABLE SEATING	:
SURFACES	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 11, 2006.

The petition is **GRANTED**.

Petitioner has shown that inventor Stephen Getson has refused to sign oath or declaration after having been presented with the complete application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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 GETSON
1340 COLORADO AVE. SE
GRAND RAPID MICHIGAN 49506

COPY MAILED
SEP 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Begin, et al.	:	LETTER
Application No. 11/225,521	:	
Filed: September 13, 2005	:	
Atty. Dkt. No.: 20108-10005	:	
For: MODULAR VEHICLE SEAT	:	
HAVING WATER-PERMEABLE SEATING	:	
SURFACES	:	

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.

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).

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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R.F. GALLAGHER
7420 MILNER DR., #1000
COLORADO SPRINGS CO 80920

COPY MAILED
OCT 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Marten C. Rhead	:	
Application No. 11/225,546	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. TAPEMEAS.DIV	:	

This is a decision on the petition, filed June 26, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of October 26, 2005, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 26, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on January 26, 2006, which included the following papers: an amendment (Response to the Office Action). Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated January 26, 2006, which would have rendered the reply timely if received.

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

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

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of October 26, 2005, is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on January 26, 2006.

This application is being referred to Technology Center AU 2859 for appropriate action in the normal course of business on the reply received with petition.

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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MILLS & ONELLO, LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

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OFFICE OF PETITIONS

In re Application of	:	
Weicheng Zang, et. al.	:	
Application No. 11/225,587	:	DECISION GRANTING
Filed: August 31, 2005	:	PETITION
Attorney Docket No. SAM-0727	:	

This is a decision on the petition filed September 13, 2005 and supplemented by facsimile transmission on December 20, 2005, requesting that the above-identified application be accorded a filing date of August 31, 2005, rather than the presently accorded date of September 13, 2005.

Petitioner alleges that the application was deposited in Express Mail Service on August 31, 2005. In support, petitioner has submitted a copy of the Express Mail label No. EV 334069765 US showing the "date-in" of August 31, 2005, as well as a Boston, MA USPS date stamp of August 31, 2005, and a copy of the USPS Track and Confirm search results, which shows that the Express Mail package in question was accepted on August 31, 2005 at 4:31 p.m. The same Express Mail receipt number appears on the original transmittal letter for the instant application.

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 31, 2005, but was subsequently returned as damaged through no fault of applicant.

In view of the above, 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 31, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to Andrea Smith at (571) 272-3226. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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ILLINOIS TOOL WORKS INC.
3600 WEST LAKE AVENUE
PATENT DEPARTMENT
GLENVIEW, IL 60025

Mail Date: 04/21/2010

Applicant	: Richard J. Tracy	: DECISION ON REQUEST FOR
Patent Number	: 7617574	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **69** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SCHUBERT OSTERRIEDER
& NICKELSON PLLC
6013 CANNON MTN DR. S14
AUSTIN, TX 7849

In re Application of	:	
Allan D. BAIN	:	
Application No. 11/225,597	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO WITHDRAW
Attorney Docket No. BAI.4010.PAT	:	FROM RECORD
	:	

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 3, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schubert, Osterrieder, Nickelson PLLC, has been revoked by the applicant/inventor of the patent application on December 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALLAN D. BAIN
3411 COVEY TRAIL
MISSOURI CITY, TX 77459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/225,597	09/13/2005	Allan D. Bain	BAI.4010.PAT

CONFIRMATION NO. 3360

POWER OF ATTORNEY NOTICE

38518
SCHUBERT OSTERRIEDER & NICKELSON PLLC
6013 CANNON MTN DR, S14
AUSTIN, TX 78749

OC000000028195292

Date Mailed: 02/08/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/03/2008.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/225,597	09/13/2005	Allan D. Bain	BAI.4010.PAT

CONFIRMATION NO. 3360

POA ACCEPTANCE LETTER

ALLAN D. BAIN
3411 COVEY TRAIL
MISSOURI CITY, TX 77459

OC000000028195341

Date Mailed: 02/08/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/03/2008.

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

/dcgoodwyn/

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

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

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Lichtenhan et al. :
Application No. 11/225,607 :
Filed: September 12, 2005 :
Attorney Docket No. 038559-0317002 :
For: High Use Temperature :
Nanocomposite Resins :

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 May 16, 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.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

The instant petition fails to satisfy (1) above.

When a petition alleges an inventor has refused to sign an oath or declaration, an affidavit or declaration by the person to whom the refusal was made should be filed. The affidavit or declaration should fully discuss the refusal and the circumstances of the refusal. The current petition fails to include a statement by a person with a first hand knowledge, to discuss when the refusal was made, or to discuss how the refusal was made (phone, in person, email, etc.).

[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).

petition fails to include a statement by a person with a first hand knowledge, to discuss when the refusal was made, or to discuss how the refusal was made (phone, in person, email, etc.). Petitioner should supply a full explanation of inventor Liu's refusal to sign the declaration.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Lichtenhan et al.	:	
Application No. 11/225,607	:	Decision According
Filed: September 12, 2005	:	Status Under 37 CFR 1.47(a)
Attorney Docket No. 038559-0317002	:	
For: High Use Temperature	:	
Nanocomposite Resins	:	

This is a decision on the petition under 37 CFR 1.47(a), filed March 5, 2007.

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

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

Mail Date: 05/04/2010

Applicant	: Chiao-Chih Chang	: DECISION ON REQUEST FOR
Patent Number	: 7613238	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/225,636	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **959** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

Mail Date: 04/21/2010

Applicant	: Daniel E. Afar	: DECISION ON REQUEST FOR
Patent Number	: 7642054	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **579** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Harrington & Smith, PC
4 Research Drive, Suite 202
Shelton, CT 06484-6212

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OFFICE OF PETITIONS

In re Application of
Hemasiri Vithana
Application No. 11/225,683
Filed: September 13, 2005
Attorney Docket No. 075115.0352

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 10, 2009.

The request is **NOT APPROVED**.

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

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Compound Photonics
P.O. Box 61482
Vancouver, WA 98666-1482

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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Dorsey & Whitney LLP
Intellectual Property Department
250 Park Avenue
New York, NY 10177

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OFFICE OF PETITIONS

In re Application of	:	
Wayne Cohen	:	
Application No. 11/225,701	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO WITHDRAW
Attorney Docket No. 187051/US-475494-00322	:	FROM RECORD

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

The request is **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 Gary Abelev, Esq. on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There are no outstanding Office actions at this time.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Wayne Cohen**
Managing Director
Bongo Logic Co., Ltd.
44 Convent Road
Silom Bangrak, Bangkok 10500
Thailand

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

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of :
Mario Zahner, et al. :
Application No. 11/225,729 :
Filed: September 12, 2005 :
Attorney Docket No. 207.132 :

DECISION GRANTING PETITION

This is a decision on the petition filed February 20, 2007, requesting that the amendment in response to the non-final rejection of October 6, 2006 be accorded a filing date of January 3, 2007, instead of the presently accorded date of January 4, 2007.

Petitioner requests the earlier filing date on the basis that the amendment was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on January 3, 2007. In support, petitioner provides, a true copy of the Express Mail label No. ER 059677689 US, the same Express Mail receipt number found on the original correspondence located in the official file and a letter from the U.S. Postal Service providing an explanation of the "Date-in" postal procedures.

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in" and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the copy of the Express Mail label reveals that, while there is no handwritten "date-in" on the label, it does include a round USPS stamp. Unfortunately the date stamp is not legible. However, petitioner clearly states that the "true copy of the 'Express Mailing Label for this submission shows a 'date-in' entry of January 4, 2007 in the round stamp made by an employee of the U.S. Postal Service." Petitioner further points out that the letter from the United States Postal Service confirms that the date appearing in the round stamp is the actual date on which the submission is made to the Express Mail Service prior to the last schedule pickup. Therefore, petitioners own evidence confirms that the amendment should be accorded a filing date of January 4, 2007.

In view of the above, the petition is **DISMISSED** and the filing date remains January 4, 2007.

Clearly the amendment that was accorded a filing date of January 4, 2007 was filed within the period set in the non-final Office action of October 6, 2006, therefore, it would appear that a petition to correct the filing date of the amendment in this case is not necessary. However, any request for reconsideration of this decision that provides new evidence should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and 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

PATRICK F. BRIGHT
BRIGHT & LORIG, P.C.
633 W. 5TH STREET, SUITE 3330
LOS ANGELES, CA 90071

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Tom HOULDEN	:	
Application No. 11/225,756	:	DECISION ON PETITION
Filed: September 13, 2005	:	UNDER 37 CFR 1.181
Attorney Docket No. **D9487**	:	

This is a decision on the petition, filed June 30, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the restriction requirement mailed October 6, 2008, which set a one (1) month or thirty (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on July 22, 2009.

Petitioner asserts that the Office action dated October 8, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center technical support staff of Art Unit 3637 for re-mailing the Office action of October 6, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquires concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **PATRICK F. BRIGHT**
WAGNER ANDERSON & BRIGHT, LLP
3541 OCEAN VIEW BOULEVARD
GLENDALE, CA 91208

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: William A. Whittenberger	: DECISION ON REQUEST FOR
Patent Number	: 7591301	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: William A. Whittenberger	: DECISION ON REQUEST FOR
Patent Number	: 7594326	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 04/20/2010

Applicant	: Satoshi Shinke	: DECISION ON REQUEST FOR
Patent Number	: 7616391	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CARTER DELUCA FARRELL & SCHMIDT
SUITE 225
445 BROAD HOLLOW ROAD
MELVILLE, NY 11747

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OFFICE OF PETITIONS

In re Application of	:	
Sal Falciglia Sr.	:	DECISION ON PETITION
Application No. 11/225,791	:	TO MAKE SPECIAL UNDER
Filed: September 13, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. 674-35	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 31, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Sal Falciglia Sr. attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3711 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FARRIS LAW, P.C.
5291 COLONY DRIVE NORTH
SAGINAW, MI 48638

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In re Application of	:	
John T. Ketterer, et. al.	:	
Application No. 11/225,798	:	DECISION ON PETITION
Filed: September 12, 2005	:	
Attorney Docket No. 7302.3001.002	:	

This is a decision on the petition under 37 CFR 1.181 (no fee) filed April 19, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 2, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 19, 2007.

Petitioner states that, while other correspondence was received, the Office action dated June 2, 2006 was not received. Petitioner notes that the Office action was returned to the USPTO as "undelivered."

A review of the written record does indicate an irregularity in the mailing of the Notice of June 2, 2006. In this regard, the non-final Office action in question was returned to the U.S. Patent and Trademark Office on June 8, 2006. Therefore, the record supports a conclusion that the non-final Office action was not received by petitioner.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3722 for (1) withdrawing the holding of abandonment and (2) for appropriate action by the Examiner in the normal course of business on the amendment filed with the instant petition.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Yu-Wen Chang	:	
Application No. 11/225,814	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 043199/297883	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed March 8, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

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

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

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

The disclosure on its face provides sufficient evidence that the invention materially contributes to countering terrorism. Accordingly, the above-identified application has been accorded "special" status.

Petitioner's Deposit Account was charge $130 for the instant petition, however, no petition fee is due. Accordingly, the petitioner fee of $130 will be credited to petitioner's Deposit Account 16-0605.

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

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

The application is being forwarded to the Technology Center Art Unit 3662 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 04/20/2010

Applicant	: Sheng-Yan Hu	: DECISION ON REQUEST FOR
Patent Number	: 7597989	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,831	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1058** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUL 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Tan Thi Thai LE, et al	:	
Application No. 11/225,835	:	DECISION ON PETITION
Filed: September 12, 2005	:	TO WITHDRAW
Attorney Docket No. 21127-004001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 3, 2010.

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 J. Goren on behalf of the attorneys of record associated with Customer No. 26181.

The attorneys of record associated with Customer No. 26181 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 first copied below until otherwise properly notified.

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

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EMOTIV SYSTEMS PTY LTD
199 NEW MONTGOMERY STREET,
SUITE 1202
SAN FRANCISCO CA 94105

cc : DAVID J. GOREN
500 ARGUELLO STREET,
SUITE 500
REDWOOD CITY CA 94063

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/225,835	09/12/2005	Tan Thi Thai Le	21127-004001

CONFIRMATION NO. 3858

POWER OF ATTORNEY NOTICE

26181
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000042651400

Date Mailed: 07/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2010.

- 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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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
Kukla et al. :
Application No. 11/225,839 : ON APPLICATION FOR
Filed: September 13, 2005 : PATENT TERM ADJUSTMENT
Docket No. JAB-1509-USDIV1 :

This is in response to the APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE, filed January 28, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least nine hundred seventy-nine (979) days, not five hundred seventy-eight (578) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

15 AUG 2006

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

In re Application of:	:	
KLEIN, Christoph	:	DECISION ON PETITION
U.S. Application No.: 11/225,844	:	TO REVIVE ABANDONED
Filing Date: September 09, 2005	:	APPLICATION UNDER 37
Attorney's Docket No.: P70832US0	:	CFR 1.137(b)
For: INHALATION AID	:	
	:	

The petition to revive international application PCT/AT2002/000051 under 37 CFR 1.137(b), filed September 09, 2005 in the above-captioned application, is hereby **GRANTED** as follows:

Applicant has submitted the required small entity petition fee, and the statement in the petition that "the entire delay in filing the required reply from the due date of August 14, 2004 until the filing of a grantable Petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

International application PCT/AT2002/000051 became abandoned as to the United States of America at midnight on August 14, 2004 for failure to timely pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

International application PCT/AT2002/000051 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/225,844.

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

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Osman et al. :
Application No. 11/225,860 :
Filed: September 14, 2005 :
Attorney Docket No. 07588.0072- :
01000 :
For: Generation of Therapeutic :
Microfoam :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "Application For Patent Term Adjustment-Pre-Grant" filed July 24, 2009. This petition is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred sixty-eight (468) days, not three hundred twenty-four (324) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

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

Christina Tartera Donnell for

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 06, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/225871 Patent No.: 7283821 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

George Eng
SPE

2617
Art Unit

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ALEXANDRIA, VA 22313-1450
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DIW Nov-06

THE LAW OFFICE OF JOHN A. GRIECCI
703 PIER AVE., SUITE B #657
HERMOSA BEACH CA 90254

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OFFICE OF PETITIONS

In re Application of	:	
Philip Watts	:	DECISION ON PETITION TO
Application No. 11/225,879	:	WITHDRAW HOLDING OF
Filed: 09/12/2005	:	ABANDONMENT
Atty. Docket No. AFE1003-01US	:	

This is a decision on the petition filed on 21 August, 2006, (certificate of mailing date 14 August, 2006) which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record reveals that a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, application search fee, application examination fee, late-filing surcharge, and an abstract of the technical disclosure in accordance with 37 CFR 1.72(b), was mailed on 4 October, 2005, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. As such, the application became for failure to timely reply to the Notice mailed on 4 October, 2005. Notice of Abandonment was mailed on 13 June, 2006.

Petitioner asserts that a reply to the Notice action was timely filed. In support, petitioner has supplied a copy of a transmittal letter itemizing the filing of a response to the notice of missing parts, the fees, and an extension of time which contains a Certificate of Mailing or Transmission dated 4 April, 2006, stating that the correspondence was deposited in first class mail, and signed by petitioner's registered patent attorney, John A. Griecci.

As petitioner has provided convincing evidence that a reply and extension of time was transmitted to the USPTO on 4 April, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact.

It is noted, however, that on 22 September, 2006, an Office letter was mailed stating that the check sent with the present petition was returned as unpaid, and that petitioner had two (2) months to submit the fees set forth.

The period for reply set in the Office letter mailed on 22 September, 2006, continues to run. **Failure to respond within this period will result in abandonment of the application.** Extensions of time under 37 CFR 1.136(a) are permitted.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

NATH & ASSOCIATES, PLLC
Sixth Floor
1030 15th Street, N.W.
Washington, DC 20005

In re Application of	:
Thomas Newmark, et. al.	:
Application No. 11/225,895	: DECISION ON PETITION
Filed: September 14, 2004	:
Attorney Docket No. 26356U	:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 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 Rejection of October 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; 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 1655 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.

Andrea Smith
Petitions Examiner
Office of Petitions

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MILES & STOCKBRIDGE, PC
1751 PINNACLE DRIVE, SUITE 500
MCLEAN, VA 22102-3833

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Gunter POLLANZ	:	
Application No. 11/225,901	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. T2861-9253US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 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 all of the acts noted above have been performed.

The request cannot be approved because it is not clear whether all attorneys/agents of record associated with Customer No. 00181 are to be withdrawn.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. NEIL M. FREEMAN
PURRINGTON MOODY WELL LLP
320 W. 13TH STREET, FIFTH FLOOR
NEW YORK, NY 10014

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1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

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OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Gunter POLLANZ	:	
Application No. 11/225,901	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. T2861-9253US01	:	FROM RECORD
	:	

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, 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 Eric G. King on behalf of all the attorneys of record associated with Customer Number 00181. All attorneys of record associated with Customer Number 00181 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 until otherwise properly notified.

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

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: GUNTER POLLANZ
PEDUYIM STR. 11, SUITE 10
HOD HASHARON IL 45292
ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/225,901	09/14/2005	Gunter Pollanz	T2861-9253US01

CONFIRMATION NO. 3065

POWER OF ATTORNEY NOTICE

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

OC000000038408762

Date Mailed: 10/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

- 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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OFFICE OF PETITIONS

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

In re Application of Bazany et al.	:	
Application No. 11/225,904	:	Decision on Petition
Filing Date: September 14, 2005	:	
Attorney Docket No. BRP 221B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2010, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on May 4, 2009. The Office action set a shortened statutory period for reply of three (3) months.

A request for continued examination ("RCE") was filed July 1, 2009. The RCE was not accompanied by a submission. As a result, a "Notice of Improper Request for Continued Examination (RCE)" was mailed February 17, 2010.

An extension of time was not obtained in response to the May 4, 2009 Office action. Therefore, the date of abandonment is August 5, 2009.

The instant petition requests revival of the application.

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

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

Petitioner has submitted a reply to the final Office action in the form of an amendment to be considered as the RCE's submission. Petitioner has submitted the required petition fee of $810.

Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 3781 will be informed of the instant decision and the application, including the RCE filed July 1, 2009, and the amendment filed March 2, 2010, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Nicholas P. Van Brunt	: DECISION ON REQUEST FOR
Patent Number	: 7582065	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,926	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **318** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

Mail Date: 04/20/2010

Applicant	: Frederick B. Mancoff	: DECISION ON REQUEST FOR
Patent Number	: 7635903	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

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OFFICE OF PETITIONS

In re Application of	:	
Jerry D. Meyers, et. al.	:	
Application No. 11/225,988	:	DECISION DISMISSING PETITION
Filed: September 14, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3463/SPRI.123574	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/298,074, filed on November 15, 2002.

The petition is **DISMISSED**.

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

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

The petition fails to comply with item (1) above. In this regard, the claim for priority to the prior-filed application is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. Also note that 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office. Also, note that the relationship of each application to the other must be stated (*i.e.* continuation, division, or continuation-in-part). Petitioner is further advised that the use in the amendment (or Supplemental Application Data Sheet) of an incorporation by reference statement after the filing of an application is improper.

Before the petition can be granted, petitioner must submit an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

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

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(3).

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

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in a Supplemental Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5). If made in a Supplemental Application Data Sheet, it must be signed in accordance with 37 CFR 1.33(b).

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OFFICE OF PETITIONS

In re Application of	:	
Jerry D. Meyers, et. al.	:	
Application No. 11/225,988	:	DECISION ON PETITION
Filed: September 14, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3463/SPRI.123574	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Additionally, 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.

This application is being forwarded to Technology Center Art Unit 2834, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

ATTACHMENT: Corrected Filing Receipt

cc: Jeffrey Williams
Shook, Hardy & Bacon, LLP
2555 Grand Boulevard
Kansas City, MO 64108

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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
11/225,988	09/14/2005	2834	1000	3463/SPRI.123574	20	3

CONFIRMATION NO. 5321

CORRECTED FILING RECEIPT

32423
SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

OC000000027856688

Date Mailed: 02/06/2008

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

Applicant(s)

Jerry Meyers, Olathe, KS;
Julie Willets, Overland Park, KS;
Larry Johnson, Overland Park, KS;

Assignment For Published Patent Application

Sprint Communications Company L.P., Overland Park, KS

Power of Attorney: The patent practitioners associated with Customer Number 32423

Domestic Priority data as claimed by applicant

This application is a CIP of 10/298,074 11/15/2002 PAT 6,960,838

Foreign Applications

If Required, Foreign Filing License Granted: 10/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/225,988**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Power system with fuel cell and localized air-conditioning for computing equipment

Preliminary Class

290

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Jerry Meyers	: DECISION ON REQUEST FOR
Patent Number	: 7602073	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/225,988	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/22/2010

Applicant	: Donald Michael Kennedy	: DECISION ON REQUEST FOR
Patent Number	: 7604020	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,012	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **501** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Myron Miske et al. :
Application No. 11/226,020 : DECISION ON PETITION
Filed: September 14, 2005 :
Attorney Docket No. 112055-0088U :

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

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before February 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 29, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

9-24-08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,382,593
Ser. No. : 11/226,020
Inventor(s) : Myron J. Miske, et. al.
Issued : June 3, 2008
Title : METHOD OF LINEARIZING ESD CAPACITANCE
Docket No. : 112055-0088U

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

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

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

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

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

Cesari & McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210

ej

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OFFICE OF PETITIONS

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

In re Application of Miske et al. Application No. 11/226,020 Filing Date: September 14, 2005 Patent No. 7,382,593 Issue Date: June 3, 2008 Attorney Docket Number: 112055-0088U Title: METHOD OF LINEARIZING ESD CAPACITANCE	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 3.81(B)

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b),[1] filed October 9, 2008, to correct both the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b) and two errors in the text of the specification.

The petition is **GRANTED** to the extent that the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b) will be corrected.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that an Assignee should be added: "Fairchild Semiconductor Corporation, 82 Running Hills Road, South Portland, Maine 04106."

1 See Official Gazette, June 22, 2004.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) 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.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on March 30, 2007.

Both the $130 processing fee and the required $100 certificate of correction fee have been received.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, in regards to the assignee information.

The Certificates of Correction Branch will then address the errors in the specification.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions

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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 of Petitioner's further action(s).

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Date Mailed: June 20, 2008
Patent No. :7,319,353 B2
Ser. No. :11/226031
Inventor(s) :Steven M. Macaluso
Issued :Jan. 15, 2008
Title: NON-LATCHING ENVELOPING CURVES GENERATOR

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

By mail: Mail Stop PETITIONS
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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) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Cesari & McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414

MD/mt

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In re Patent No. 7,319,353	:	
Issue Date: January 15, 2008	:	
Application No. 11/226,031	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. 112055-0087U	:	

This is a decision on the petition filed July 11, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 11/226,033	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. TA-00826	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and Terminal Disclaimer previously submitted on December 20, 2006, (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 3644 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450

Serial no. : 11/226095
Date Mailed : January 12, 2010
Patent No. :7,299,570 B2
Patent Issued : November 27, 2007
Inventor(s) : Harold B. Dreyer
Title: WEAR ASSEMBLY FOR AN EXCAVATOR

Re: Request for Reconsideration for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent.

Respecting the alleged errors noted in your request, the request for certificate of correction under 1.322 & 323 and rules 254 &255 is improper because correction of inventorship should be under 1.324 which requires : a statement from the added inventor that which is done without deceptive intent; a statement from the current inventors that they have no disagreement to this correction; a statement from all assignees agreeing to the change, under 3.73; and a fee under 1.20

In view of the foregoing your request is hereby denied.

Magdalene Talley`
For Mary Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
Fax (571)270-9942

Esco Corporation
2141 NW 25th Avenue
Portland, OR 97210-2578

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 5, 2008

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction for Appl. No 11/226095 patent no7299570

Inventorship

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The request for certificate of correction under 1.322 & 1.323 and rules 254 & 255 is improper because correction of inventorship should be under 1.324 which requires:a statement from the added inventor that with is done without deceptive intent; a statement from the current inventors that they have no disagreement to this correction; a statement from all assignees agreeing to the change under 3.73; and a fee under 1.20.

/Thomas B Will/ SPE — 3671

SPE — Art Unit

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Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
Woodbury, MN 55125

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OFFICE OF PETITIONS

In re Application of	:	
Hidetaka Nishimura	:	
Application No. 11/226,103	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. NNA-239-A (NML 04-00275)	:	FROM RECORD

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 6, 2006.

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

A review of the file record indicates that the power of attorney to Shumaker & Sieffert, P.A. has been revoked by the assignee of the patent application on May 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Young & Basile, P.C.**
3001 West Big Beaver Road
Suite 624
Troy, MI 48084

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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
11/226,124	09/12/2005	2644	775	P01304-US-00	4	31	3

CONFIRMATION NO. 5576

CORRECTED FILING RECEIPT

OC000000017262582

Doreen J. Gridley
ICE MILLER
One American Square
Box 82001
Indianapolis, IN 46282-0200

Date Mailed: 10/17/2005

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

Applicant(s)

Christopher Todd Welsh, Fishers, IN;
Jeffrey Phillip McAteer, Indianapolis, IN;

Assignment For Published Patent Application

MWM Acoustics, LLC, (an Indiana limited liability company), Indianapolis, IN

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/226,124

Projected Publication Date: 03/15/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Automotive microphone assembly

Preliminary Class

381

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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PATENT ADMINISTRATOR
NEAL, GERBER, & EISENBERG
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO, IL 60602

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Tracy Alan Metzger	:	
Application No. 11/226,130	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. 18474.01US3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 22, 2010.

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

A review of the file record indicates that the power of attorney to Neal, Gerber, & Eisenberg has been revoked by the assignee of the patent application on June 9, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MCGUIREWOODS, LLP**
1750 TYSONS BLVD.
SUITE 1800
MCLEAN, VA 22102

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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
McPherson, Matthew A.	:	
Application No. 11/226,136	:	ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. M55.2N-10181-US03	:	

This is a decision on the petition filed September 27, 2005, requesting that the above-identified application be accorded a filing date of September 13, 2005, rather than the date of September 14, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 13, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 615921404 US showing a handwritten "date-in" as well as a "September 13, 2005" receipt stamp. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on September 13, 2005, at 4:54 p.m. at the Hopkins, MN USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on September 13, 2005.

The petition is **GRANTED**.

This matter is being referred to Technology Center 2800 for examination in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Josue V. Aviles	: DECISION ON REQUEST FOR
Patent Number	: 7571721	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,140	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1001** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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www.uspto.gov

WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Hawkins, et al.	:	
Application No. 11/226,152	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. 8017-482	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned February 17, 2008 for failure to timely submit a proper reply to the non-final Office action mailed November 16, 2007. The non-final Office action set a three month shortened statutory period of time for reply. An untimely petition for three month extension of time was filed May 29, 2008. Notice of Abandonment was mailed July 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the required petition fee, and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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.

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 $1,050.00 extension of time fee was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address:

Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received September 19, 2008.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: BRIAN KUNZLER
Kunzler and Assocs
10 W 100 S Ste 425
Salt Lake City, UT 84101

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DEC 01 2005

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

In re Application of	:	
Dorothy V. Bowler	:	
Serial No.: 11/226,159	:	DECISION ON PETITION
Filed: September 14, 2005	:	
For: Post-Surgical Comfort Brassiere and	:	
Method of Making	:	

This is in response to applicants' petition filed September 14, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(a), based on applicant's health condition.

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

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

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

Frederick R. Schmidt, Director
Technology Center 3700

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Perkins Coie, LLP
Patent-Sea
P.O. Box 1247
Seattle, WA 98111-1247

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Brent Hickey	:	
Application No. 11/226,160	:	DECISION ON
Filed: September 14, 2005	:	PETITION TO WITHDRAW
Attorney Docket No. 580158001US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 22, 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 Susan D. Betcher on behalf of attorney/agents associated with customer number 25096. All attorneys/agents associated with customer number 25096 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brent Hickey
700 North Dobson Road
Lot 32
Chandler, AZ 85224

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/226,160	09/14/2005	Brent Hickey	580158001US1

CONFIRMATION NO. 5116

POWER OF ATTORNEY NOTICE

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

OC000000036607792

Date Mailed: 06/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2009.

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

/kainabinet/

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

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HAHN LOESER & PARKS LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311-1076

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SEP 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark Votaw et al	:	
Application No. 11/226,165	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 002267.00004	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 9, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Inventor Al Zelczer's driver license 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 3744 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Shell Oil Company
910 Louisiana
Houston TX 77002

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald Ross Kelsey et al.	:	
Application No. 11/226,176	:	
Filed: September 14, 2005	:	DECISION ON PETITION
Attorney Docket No. TH2391 (US)	:	UNDER 37 C.F.R. § 1.181(A)
Title: POLYTRIMETHYLENE	:	
TEREPHTHALATE HAVING A LOW	:	
LEVEL OF ACROLEIN AND A PROCESS	:	
FOR PRODUCING THE SAME	:	

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 31, 2007.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 13, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on November 14, 2007. A Notice of Abandonment was mailed on December 6, 2007.

1 See MPEP § 710.02(e).

RELEVANT PORTION OF THE MPEP

MPEP § 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

See also 1156 O.G. 53 (October 25, 1993), which may be viewed at http://www.uspto.gov/web/offices/com/sol/og/con/files/cons074.htm

ANALYSIS

With the present petition, Petitioner has alleged that the mailing was not received, has set forth that he has searched both the file jacket and the docket records, and has included copies of the latter.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Notice of Allowance and Issue Fee Due, originally mailed August 13, 2007, and will set a new period for response.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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CANTOR COLBURN, LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

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AUG 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Chieko SATO	:	
Application No. 11/226,178	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. KOY005US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 8, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 8, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 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 $1510 and publication fee of $300; (2) the petition fee of $1620 and (3) a proper statement of unintentional delay.

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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BROWDY AND NEIMARK PLLC
624 NINTH STREET NW
SUITE 300
WASHINGTON DC 20001-5303

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JAN 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Archer C.C. Chen	:	
Application No. 11/226,208	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. CHEN419	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 18, 2008.

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 April 30, 2008. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on August 29, 2008, made timely by obtaining a one month extension of time. However, in an Advisory Action mailed on September 22, 2008, the Examiner informed Applicant that the Amendment did not place the application in condition for allowance. No further reply with an extension of time having been received, the application became abandoned on August 31, 2008. The Office mailed a Notice of Abandonment on December 5, 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.

The application is being forwarded to Group Art Unit 3711 for consideration of the RCE, filed December 18, 2008.

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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OFFICE OF PETITIONS

FUJITSU PATENT CENTER
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Kawai, et al.	:	
Application No. 11/226,217	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. 05-50934	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 9, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action mailed April 6, 2009. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 10, 2009. The Office mailed a Notice of Abandonment on October 28, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a continuation application.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above identified application is again abandoned in favor of the continuation application, no. 12/615,126, filed November 9, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

THE MUELLER LAW OFFICE, P.C.
12951 HARWICK LANE
SAN DIEGO, CA 92130

In re Application of	:	
Dmitri Lapanki et al	:	
Application No. 11/226,253	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. D2SIP013	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 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 Office action mailed January 22, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on February 23, 2008.

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

This matter is being referred to Technology Center AU 2825 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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GOWLING LAFLEUR HENDERSON
ONE MAIN STREET WEST
HAMILTON, ON
L8P 4Z5
CANADA

AIRMAIL

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Desmond D. Stubbs et al	:	
Application No. 11/226,261	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. H1311224US	:	37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 6, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

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

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

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

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The specification and claims as originally filed provide no indication of an

intention to counter terrorism by providing a detecting and identifying bacteria. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

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

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

By FAX: (571) 273-8300

The $130.00 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.

This matter is being referred to Technology Center Art Unit 1653 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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ONE MAIN STREET WEST
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L8P 4Z5
CANADA

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OFFICE OF PETITIONS

In re Application of
Desmond D. Stubbs et al
Application No. 11/226,261
Filed: September 15, 2005
Attorney Docket No. H311224US

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(iii), filed March 20, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

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

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

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

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

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

The petition still has not meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The claimed invention is directed to a method for detecting and identifying bacteria. While the petition and the disclosure state the claimed device and method are suitable for detecting harmful biological agents on the battleground, in public places, including individual packages or explosives, or in heating, ventilation and air conditioning (HVAC) systems of buildings, none of the claims are specifically directed towards countering terrorist activities, e.g., countering bioterrorism. The claimed invention, rather, could be used for detection of any bacteria. As a result, no material advancement in the technology of countering terrorism has been persuasively shown.

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

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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

The $130 petition fee 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.

This application is being referred to the Office of Initial Patent Examination for preexamination processing.

Denise Pothier
Petitions Examiner
Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/21/2010

Applicant	: David R. Parlin	: DECISION ON REQUEST FOR
Patent Number	: 7620215	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,276	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Anders Westergaard	: DECISION ON REQUEST FOR
Patent Number	: 7639822	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **882** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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MAR 1 7 2006

OFFICE OF PETITIONS

In re Application of	:	
MacDonald et al.	:	DECISION ON
Application No. 11/226,351	:	PETITION
Filed: September 15, 2005	:	
Atty Docket No. 320727.50218	:	

This is a decision on the "petition under 37 CFR 1.17" filed November 3, 2005. Petitioner requests that the above-identified application be accorded a filing date of September 15, 2005, with figures 6H, 6J, 6K, 6L and 6M considered part of the original application disclosure.

Application papers in the above-identified application were filed on September 15, 2005. However, on October 6, 2005, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, figures 6H, 6J, 6K, 6L and 6M described in the specification appeared to have been omitted.

Petitioner responded with the instant petition (and petition fee). Petitioner maintains that figures 6H, 6J, 6K, 6L and 6M were deposited with the USPTO on September 15, 2005. In support thereof, petitioner submits a copy of their date-stamped postcard receipt. Petitioner also supplies a copy of the missing pages of drawings.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears a USPTO date-stamp acknowledging receipt on September 15, 2005 of the correspondence assigned application No. 11/226,351, 2) it

identifies the items being filed, including "Drawings (25 sheets)," and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 25 sheets of drawings, were filed on September 15, 2005.

A review of the drawing sheets considered received in the Office on September 15, 2005, and the 2 sheets of drawings (containing figures 6H, 6J, 6K, 6L and 6M) submitted on petition filed November 3, 2005, reveals that these sheets constitute the papers identified on the postcard as "Drawings (25 sheets)." Petitioner has shown that the application as filed included figures 6H, 6J, 6K, 6L and 6M.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-1710, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of September 15, 2005, using the application papers received in the Office (including 23 sheets of drawings) and presently accorded that date; and the 2 sheets of drawings (containing figures 6H, 6J, 6K, 6L and 6M) resubmitted on petition filed November 3, 2005;

- indication in Office records, as appropriate, that the application as filed included 25 sheets of drawings.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Shuhei YADA et al :
Application No. 11/226,360 : DECISION ON PETITION
Filed: September 15, 2005 :
Attorney Docket No. :
278350US0CONT

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2007, 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 9, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 10, 2007.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee therefor, (2) the petition fee of 1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of August 9, 2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $570 extension of time fee submitted with the petition on February 12, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

This application is being referred to Technology Center AU 1621 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

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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	: Won-Kyu Suk	: DECISION ON REQUEST FOR
Patent Number	: 7599309	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **706** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Sok-San Kim	: DECISION ON REQUEST FOR
Patent Number	: 7595977	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **927** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 28, 2008

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/226428 Patent No.: 7345673 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

[signature] 2629
SPE **Art Unit**

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

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OFFICE OF PETITIONS

In re Application of	:	
Yoshihide Nakae et al.	:	
Application No. 11/226,464	:	DECISION ON PETITION
Filed: September 15, 2005	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: 078605-0317602	:	
Title: COOLING DEVICE FOR CONSTRUCTION MACHINE	:	

This is a decision on the petition filed on June 20, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 7, 2005, 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 requested. Accordingly, the above-identified application became abandoned on December 8, 2005. A notice of abandonment was mailed on June 13, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

1 See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the notice of October 7, 2005, and will set a new period for response.

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

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).

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Ioana M. Danciu	: DECISION ON REQUEST FOR
Patent Number	: 7639262	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,481	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 04/20/2010

Applicant	: John R. Boehringer	: DECISION ON REQUEST FOR
Patent Number	: 7625362	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 04/20/2010

Applicant	: Koichi Fujiwara	: DECISION ON REQUEST FOR
Patent Number	: 7576737	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **503** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA CT.
SARATOGA ,CA 95070

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Chouhsuan Tsai	:	
Application No. 11/226,529	:	ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. 2011189	:	

This is a decision on the petition, filed March 15, 2007, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **DISMISSED**.

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 petition lacks items 3 above.

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.

---

[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 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OCT 12 2007

OFFICE OF PETITIONS

PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA CT.
SARATOGA, CA 95070

In re Application of
Chou Hsuan Tsai
Application No. 11/226,529
Filed: September 13, 2005
Attorney Docket No. 2011189

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 19, 2006. A Notice of Abandonment was mailed on January 17, 2007. On March 15, 2007 a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed July 18, 2007. In response, on August 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 requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
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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APR 2 0 2010

Ralph E. Jocke
Walker and Jocke
231 South Broadway
Medina, OH 44256-2601

In re Application of	:	
DRUMMOND et al.	:	DECISION ON PETITION
Application No. 11/226,540	:	TO WITHDRAW
Filed: December 3, 2004	:	RESTRICTION REQUIREMENT
For: AUTOMATED BANKING	:	UNDER 37 CFR 1.144
MACHINE SYSTEM WITH	:	
MULTIPLE BROWSERS	:	

This is a decision on applicants' petition under 37 CFR 1.144 filed March 3, 2009 requesting withdrawal of a restriction requirement made final in an office action dated January 6, 2009, and a transfer of the instant application to class 235 in Art Unit 2876.

The petition is **DISMISSED as moot**.

Applicants argue in the petition that the examiner failed to show that the groupings of claims in the restriction requirement are independent and distinct. The examiner also failed to show serious burden in search and examination if restriction is not made. Applicant also argues that the elected Invention I, as amended on October 17, 2008, should be transferred to class 235 in Art Unit 2876 because it would be best examined in class 235.

A review of the record shows that in the Office action mailed on September 22, 2008, the examiner required a restriction between invention I directed to an automated banking machine (claims 1 and 20-30), invention II directed to an automated banking machine with transaction function devices (claims 31-33), and invention III directed to an automated banking machine with cash dispenser (claims 34-38). Applicants filed a response on October 17, 2008 provisionally electing with traverse invention I of claims 1 and 20-30. The examiner, upon reconsideration, adhered to the restriction requirement and made the requirement final in an Office action mailed on January 6, 2009. This petition was then timely filed by applicants. During a telephonic interview between applicants' representative and the examiner held on July 9, 2009 to discuss allowable subject matter, applicant's representative authorized an examiner's amendment cancelling the non-elected claims 31-38. In addition, in a communication on October 5, 2009, applicants affirmed the authorization given to the examiner on July 9, 2009 for an examiner's amendment cancelling claims 31-38. Applicants' authorization to cancel the non-

elected claims 31-38 and the Notice of Allowance dated July 10, 2009 render the issues raised in the petition of March 3, 2009 moot. The petition is hereby dismissed.

Any questions regarding this decision should be directed to Alexander Kalinowski at (571) 272-6771.

Wynn Coggins, Director
Technology Center 3600
571-272-5350

ak/lm:3/26/10
LM

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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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AUG 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Stelljes et al.	:	
Application No. 11/226,542	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. 9372D2	:	

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 1791 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Leigh M. Rothschild	: DECISION ON REQUEST FOR
Patent Number	: 7631000	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,561	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **559** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Paper No.

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

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DEC 20 2008

In re Application of	:	
Win-Chi Chow	:	
Application No. 11/226,581	:	
Filing Date: September 13, 2005	:	DECISION ON PETITION
Attorney Docket Number:	:	PURSUANT TO 37 C.F.R.
ZRAN.024US1	:	§ 3.81(B)
Title: 2:2 AND 3:2 PULL-DOWN	:	
DETECTION TECHNIQUES	:	

This is a decision on the two petitions submitted on February 26, 2008 and April 24, 2008, which are being treated as a petition pursuant to 37 C.F.R. § 3.81(b),[1] to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The Office regrets the period of delay in issuing this decision - it is noted that on February 29, 2008, a petition to expedite was received in the Office. The associated $400 fee has not been charged to Petitioner's Deposit Account.

Petitioner requests that the name of the Assignee, as well as the city and state of the Assignee, be corrected.

1 See Official Gazette, June 22, 2004.

37 C.F.R § 3.81(b), effective June 25, 2004, reads:

> (b) 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.

Office records show that the assignment for the above-identified application (associated with the parent application) was received in the Office on April 24, 2002, which is prior to the payment of the Issue Fee on February 25, 2008.

Payment of the required $130 processing fee has been submitted.

However, in order for Petitioner's request to be effectuated, a Certificate of Correction must be issued correcting the address for the assignee. **Petitioner has not submitted a Certificate of Correction for this purpose, indicating that the name and address of the Assignee which will appear on the face of the patent should be changed.**

As such, this petition must be **DISMISSED**.

It is noted that the above-referenced assignment document lists the Assignee as having an address in the city of Santa Clara, whereas Petitioner has indicated that the Assignee is located in the city of Sunnyvale. Petitioner will note that any information that is placed on the certificate of correction must match that which appears on the recorded assignment.

The required $100 certificate of correction fee will be charged to Petitioner's Deposit Account in due course, as authorized in the petition.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and should include the deficient payment. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The renewed petition should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 3.81(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be

submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[6]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney.Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any 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

Date : January 8, 2008

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 11/226,581**

Applicant(s) : Wing-Chi Chow
Application No. : 11/226,581
Filed : September 13, 2005

The above-identified application has been assigned Patent No. 7,483,078 and an issue date of January 27, 2009.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 27, 2009:

"All reference to Patent No. 7,483,078 to Wing-hi Chow of Canada for 2:2 AND 3:2 PULL-DOWN DETECTION TECHNIQUES appearing in the Official Gazette of January 27, 2009 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kim Terrell
Kay Pinkney
Betty Powell

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 05/03/2010

Applicant	: Wing-Chi Chow	: DECISION ON REQUEST FOR
Patent Number	: 7612829	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/226,581	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **52** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IPLAW DEPARTMENT
2455 SOUTH ROAD – MS P386
POUGHKEEPSIE, NY 12601

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of :
Brian D. Goodman et al :
Application No. 11/226,593 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No. POU920020089US3

This is a decision on the petition, filed October 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 October 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2151 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL BUSINESS MACHINES CORPORATION
RICHARD LAU
IPLAW DEPARTMENT/BLDG 008-2
2455 SOUTH ROAD – MS P386
POUGHKEEPSIE NY 12601

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NOV 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian D. Goodman et al	:	
Application No. 11/226,593	:	DECISION GRANTING PETITION
Filed: September 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POU920020089US3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 24, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2451 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

IN THE U.S. PATENT & TRADEMARK OFFICE

Applicant: Brian D. Goodman et al.	: Confirmation No. 4276
Serial No. 11/226593	: GROUP ART UNIT 2451
Filed: 09/14/2005	: Examiner: Patel, Dhairya A
Title: CONTROLLING COMPUTER	: November 24, 2009
RESPONSE MESSAGE TRAFFIC	: Floyd A. Gonzalez
	: Intellectual Property Law
	: 2455 South Road - P386
	Poughkeepsie, NY 12601

Commissioner for Patents
P.O. Box 1450
Alexandria Va. 22313-1450

Petition to Withdraw from Issue according to 37 C.F.R. 1.313(c)(2)

Sir:

The applicant respectfully requests that US Patent Application Serial No. 11/226,593 be withdrawn from Issue in consideration of a request for continued examination of the application in compliance with 37 C.F.R. 1.114. Please charge any fees to Deposit Account 09-0463.

RESPECTFULLY SUBMITTED

/Floyd A. Gonzalez/

Floyd A. Gonzalez, Reg. 36,732
Phone: 845-433-7287
Fax: 845-432-9601

11/226593 DIEP1 00000012 090463 11226593
FC:1464 130.00 DA

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Colin P. Abrahams
5850 Canoga Avenue
Suite 400
Woodland Hills CA 91367

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Bernadette Jean Sava	:	
Application No. 11/226,595	:	
Filed: September 15, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 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-compliant amendment notice mailed December 11, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 12, 2007. The Notice of Abandonment was mailed April 26, 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 $750; and (3) an adequate statement of unintentional delay.

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

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

The application file is being referred to Technology Center AU 3761 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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5850 Canoga Avenue
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MAY 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Jean Bernadette Sava	:	
Application No. 11/226595	:	ON PETITION
Filing or 371(c) Date: 09/15/2005	:	
Title of Invention:	:	
DISPOSABLE MENSTRUAL UNDERWEAR	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 5, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the final Office action, mailed October 16, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on January 17, 2009. A Notice of Abandonment was mailed May 20, 2009.

Applicant files the present petition and the response, a continuation application, was filed February 5, 2010. The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application; (2) the petition fee; and (3) a proper statement of unintentional delay.

Accordingly, the petition is granted.

This application is being revived for continuity purposes, and is again abandoned in favor of the continuing application, serial no. 12/658277, filed February 5, 2010.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

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Law Office of Robert O. Bolan
P.O. Box 36
Bellevue WA 98009

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OFFICE OF PETITIONS

In re Application of
Uppala
Application No. 11/226,606
Filed: September 13, 2005
Attorney Docket No. 1010

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned June 15, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed March 14, 2008. This decision precedes Notice of Abandonment.

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

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

This application is being returned to Technology Center 2100 for processing of the RCE filed herewith.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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DEC 07 2009

OFFICE OF PETITIONS

DAVID A. EINHORN, ESQ.
BAKER & HOSTETLER LLP
45 ROCKFELLER PLAZA
NEW YORK, NY 10111

In re Application of	:	
Jae Seon KIM, et al	:	
Application No. 11/226,607	:	DECISION ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. DE-1651	:	

This is a decision on:

(1) the petition under 37 CFR 1.137(a) requesting that the petition be entered as unavoidable in the above-identified application; and

(2) in the alternative, the petitioner is requesting the petition be entered under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

These two petitions were filed on August 21, 2009 and supplemented on September 11, 2009.

The petition under 37 C.F.R. 1.137(a) is **DISMISSED**, and the petition to revive under 37 C.F.R. 1.137(b) is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 4, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 5, 2009.

Revive, Unavoidable Delay

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

and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

With respect to item 3: Petitioner asserts that a response was filed on March 6, 2009, via EFS – Web. However, petitioner states no acknowledgement confirming the receipt by the U.S. Patent Office was received.

A review of the Office record indicates no response was received on March 6, 2009.

Since petitioner has not provided the necessary evidence to establish unavoidable delay, the petition cannot be granted.

Revive, Unintentional Delay

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

The required petition fee of $1620 will be deducted from petitioner's Deposit Account No. 50-4581, as authorized.

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

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received August 21, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Grayzel et al.	:	
Application No. 11/226,608	:	ON PETITION
Filed: September 13, 2005	:	
Attorney Docket No. 129338/00047	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 19, 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, Joseph Grayzel. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3731 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 04/21/2010

Applicant	: Michael D. Gallagher	: DECISION ON REQUEST FOR
Patent Number	: 7606568	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Brian Donald Hart	: DECISION ON REQUEST FOR
Patent Number	: 7580399	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Steven J. Koch	: DECISION ON REQUEST FOR
Patent Number	: 7647687	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,633	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1162** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of	:	
Ross Alan Tessien	:	
Application No. 11/226,641	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. IMP027	:	FROM RECORD
	:	

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

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

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

There 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: ROSS ALAN TESSIEN
11482 TOWER HILL ROAD
NEVADA CITY, CA 95959

cc: ROSS TESSIEN
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVENUE
UNIT H
GRASS VALLEY, CA 95945

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/226,641	09/14/2005	Ross Alan Tessien	IMP027

CONFIRMATION NO. 5208

OC000000025236998

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

Date Mailed: 08/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2007.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/21/09

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/226644 Patent No.: 7550200 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 (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

SPE — 1796 Art Unit

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

Mail Date: 04/21/2010

Applicant	: Stephen C. Mertz	: DECISION ON REQUEST FOR
Patent Number	: 7617968	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,649	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

Mail Date: 04/26/2010

Applicant	: John Potter	: DECISION ON REQUEST FOR
Patent Number	: 7621089	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/226,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **623** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Tsunejiro Takahashi et al :
Application No. 11/226,652 :
Filed: September 14, 2005 :
Attorney Docket No. 44471/320393

ON PETITION

This is a decision on the petition, filed May 13, 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 April 3, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

APR 09 2010

OFFICE OF PETITIONS

In re Applications of	:	
Tsunejiro Takahashi	:	
Applications No. 11/226,652	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. 44471/320393	:	

This is a decision on the Petition under 37 CFR 1.181 filed July 7, 2009, which is being treated as a petition for refund under 37 CFR 1.181.

The petition is **DISMISSED**.

Petitioner requests refund of all fees paid by applicant as a result of the examiner's refusal to consider the supplemental IDS filed November 18, 2005. Petitioner states these fees include the fees for the petition to withdraw the application from issuance, the RCE and fee for the instant petition. It is noted the instant petition is treated under 37 CFR 1.181 for which there is no petition fee.

Petitioner avers that the examiner's improper refusal to consider the IDS filed on November 18, 2005 required petitioner to file the request to withdraw from issue and file the RCE.

37 CFR 1.26(a) states, in part, that:

> "The Director may refund any fee paid by mistake or in excess of that required"

In the present situation, the applicant purposely submitted the request to withdraw from issue and file an RCE. Such a conscious action does not constitute a mistake under 37 CFR 1.26(a). For this reason the petition is **dismissed**. The application was withdrawn from issue and the RCE filed.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 19 2005

OFFICE OF PETITIONS

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

In re Application of :
Shoemake, Rajagopal, and Terry :
Application No.: 11/226,654 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No: AWIQU.0117 :
For: DETETCTION AND MITIGATION OF INTERFERENCE AND JAMMERS IN AN OFDM SYSTEM

This is in response to the petition under 37 CFR 1.47(a), filed December 12, 2005 (certificate of mailing dated December 7, 2005.)

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

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

The above-cited application was filed on September 14, 2005, without a properly executed declaration. On October 7, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a proper declaration and a surcharge for the late filing of the declaration. On December 12, 2005, the instant petition was filed.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (2) as set forth above.

A review of the application file did not reveal an oath or declaration signed by the joint inventors who have agreed to join the prosecution of the application. See MPEP § 409.03(a). A declaration signed by the consenting joint inventors must accompany any renewed petition filed.

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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OFFICE OF PETITIONS

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

In re Application of :
Shoemake, Rajagopal, and Terry :
Application No.: 11/226,654 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No: AWIQU.0117 :
For: DETETCTION AND MITIGATION OF INTERFERENCE AND JAMMERS IN AN OFDM SYSTEM

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 27, 2006 (certificate of mailing dated February 21, 2006.)

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

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

The above-cited application was filed on September 14, 2005, without a properly executed declaration. On October 7, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a proper declaration and a surcharge for the late filing of the declaration. A petition under 37 CFR 1.47(a) was filed on December 12, 2005 and dismissed by a decision mailed December 19, 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,

A subsequent review of the petition filed December 12, 2005, and the instant renewed petition revealed that the petitions lack (1) as set forth above.

As to item (1) sufficient proof was not provided that the entire application was sent to the non-signing inventor. Petitioner maintains that the non-signing inventor's demand for additional compensation is a constructive refusal to join the prosecution of the application. However, for the purposes of satisfying the requirements of 37 CFR 1.47 when a refusal (whether constructive or express) by the non-signing inventor is alleged, petitioner must affirmatively establish that the non-signing inventor is aware of contents of the application before he can be said to have refused to join its prosecution. Guidance as to what is required to be sent to the non-signing before a refusal to join the prosecution of the application can be alleged is found in the *Manual of Patent Examining Procedure*, Section 409.03(d) which reads, in pertinent part:

> [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 non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The undersigned sincerely regrets that this was not addressed in the decision of December 19, 2005, however, the renewed petition must demonstrate that inventor Terry was provided with a complete copy of the application papers for his review. This may be accomplished by providing a copy of the cover letter that may accompany the application papers sent to Mr. Terry.

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

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P.O. Box 1450
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CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

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OFFICE OF PETITIONS

In re Application of :
Shoemake, Rajagopal, and Terry :
Application No. 11/226,654 : DECISION ACCORDING
Filed: September 14, 2005 : RULE 47(a) STATUS
Attorney Docket No: AWIQU.0117 :
For: **DETECTION AND MITGATION OF INTERFERENCE AND JAMMERS IN AN OFDM SYSTEM**

This is in response to the second renewed petition under 37 CFR 1.47(a), filed May 8, 2006.

The second renewed petition is **GRANTED**.

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

The above-cited application was filed on September 14, 2005, without a properly executed declaration. On October 7, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration and payment of a surcharge. A petition under 37 CFR 1.47(a) was filed on December 12, 2005, and dismissed by a decision mailed December 19, 2005. A renewed petition was then filed on February 27, 2006, and dismissed by a decision mailed March 8, 2006.

Petitioner has shown that inventor Terry has constructively refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

It is noted that the petition fee of $200.00 was charged again on February 28, 2006. The duplicate fee of $200.00 will be refunded to deposit account 50-0392, in due course.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

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In re Application of	:	
MERRILL, Thomas L.	:	
Application No. 11/226,683	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. **FOCA-002/01US**	:	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 December 13, 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, client decided to prosecute this application, does not meet any of the conditions set forth in 37 CFR 10.40. See PTO/SB/83 (04-08).

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

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THOMAS L. MERRILL**
25 LYNNFIELD DRIVE
EAST WINSOR NJ 08520

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
MERRILL, Thomas L.	:	
Application No. 11/226,683	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. **FOCA-002/01US 305374-2003**	:	FROM RECORD

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, 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 Thomas Merrill. 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 November 25, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THOMAS MERRILL**
25 LYNFIELD DRIVE
EAST WINDSOR NJ 08520

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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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS, CO 80525

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MAR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Boon Keat **TAN, et al.**	:	
Application No. 11/226,684	:	DECISION GRANTING PETITION
Filed: September 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **70041437-1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2876 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

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

Paper No. None

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OFFICE OF PETITIONS

LAWRENCE EDELMAN, ESQ
3 BUFFALO RUN
EAST BRUNSWICK NJ 08816

In re Application of	:	
Joseph Stanley Siernos et al.	:	
Application No. 11/226,697	:	DECISION ON PETITION
Filing Date: September 14, 2005	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: 5JD02US	:	
Title: PRECISION LIQUID	:	
APPLICATOR	:	

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed July 31, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 3, 2005, 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 requested. Accordingly, the above-identified application

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.

became abandoned on December 4, 2005. A notice of abandonment was mailed on June 13, 2006.

With the present petition, Petitioner has submitted the petition fee, replacement drawings, and the proper statement of unintentional delay. A terminal disclaimer is not required.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The Office of Initial Patent Examination will be notified of this decision, so that the replacement drawings which were received with the present petition can receive further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DAFFER MCDANIEL, LLP
P.O. BOX 684908
AUSTIN, TX 78768

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OFFICE OF PETITIONS

In re Application of:	:	
Verma et al.	:	
Application No. 11/226,698	:	
Filed: September 14, 2005	:	DECISION
Title of Invention:	:	GRANTING STATUS
METHODS, SYSTEMS, AND CARRIER MEDIA:		UNDER 37 CFR 1.47
FOR EVALUATING RETICLE LAYOUT DATA :		

This decision is in response to the Petition Under 37 CFR 1.47(a), filed December 5, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). he delay in treating this petition is regretted.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Moshe E. Preil, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MR. MOSHE E. PREIL
732 SHASTA FIR DRIVE
SUNNYVALE, CA 94086

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of: :
Verma et al. :
Application No. 11/226,698 :
Filed: September 14, 2005 : LETTER
Title of Invention: :
METHODS, SYSTEMS, AND CARRIER MEDIA:
FOR EVALUATING RETICLE LAYOUT DATA :

Dear Mr. Preil:

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 Advisor
Office of Petitions

cc: DAFFER MCDANIEL, LLP
P.O. BOX 684908
AUSTIN, TX 78768

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CARTER DELUCA FARRELL & SCHMIDT
SUITE 225
445 BROAD HOLLOW ROAD
MELVILLE, NY 11747

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Sal Falciglia Sr.	:	DECISION ON PETITION
Application No. 11/226,732	:	TO MAKE SPECIAL UNDER
Filed: September 14, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. 67432	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 26, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Sal Falciglia Sr. attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3711 action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Charles A. Muserlian
c/o Hedman and Costigan
1185 Avenue of the Americas
New York, NY 10036

Mail Date: 06/16/2010

Applicant	: Maxime Lampilas	: DECISION ON REQUEST FOR
Patent Number	: 7638529	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/226,749	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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WEGMAN, HESSLER & VANDERBURG
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SUITE 200
CLEVELAND OH 44131

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OFFICE OF PETITIONS

In re Application of	:	
Marc Kellens, et al.	:	
Application No. 11/226,758	:	NOTICE
Filed: September 14, 2005	:	
Attorney Docket No. 020360 012P2	:	

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 is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

Mail Date: 05/12/2010

Applicant	: Marc Kellens	: DECISION ON REQUEST FOR
Patent Number	: 7615241	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/226,758	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **909** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AKERMAN SENTERFITT
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OFFICE OF PETITIONS

In re Application of
Sudhir Patil, et. al.
Application No. 11/226,791
Filed: September 14, 2005
Attorney Docket No. 3875.044

DECISION ON PETITION

This is a decision on the petition, filed March 15, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of February 14, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 14, 2006 with a three months extension of time.

Petitioner states that a timely reply was mailed via certificate of mailing on August 14, 2006, which included the following papers: an amendment and three (3) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated August 14, 2006, which would have rendered the reply timely if received.

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

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

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of February 14, 2006 is hereby withdrawn and the application restored to pending status.

Since the response filed on August 14, 2006 was timely, the $1,500 petition fee that was charged to petitioner's deposit account on March 15, 2007 will be applied towards the $1,020 extension of time fee for three months. Therefore, the remaining $480 will be credited to petitioner's deposit account.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on August 14, 2006.

This application is being referred to Technology Center Art Unit 1621,for appropriate action in the normal course of business on the reply received with petition.

Andrea Smith
Petitions Examiner
Office of Petitions

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In re Patent No. **7,518,005**	:	
Issue Date: April 14, 2009	:	
Application No. 11/226,791	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: September 14, 2005	:	
Attorney Docket No. **3875-44 (184742)**	:	

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

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

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. Peter A. Chiabotti 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. Chiabotti desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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 Monica A. Graves at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

In re Application of	:	
Marcelo Ribeiro Paschoalino	:	
Application No. 11/226,800	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO WITHDRAW
Attorney Docket No. 54249/O107	:	FROM RECORD
	:	

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 31, 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 undersigned have express authority and power to act for said other persons", 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: TECUMSEH DO BRASIL LTDA
C/O OCTAVIO & PEROCCO
S/C LTDA.,
PO BOX 2456
01060-970 SAO PAULO, BRAZIL

OIPE IAP77
APR 02 2007
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 30, 2007.

Marti Carrillo

Applicant	: Marcelo Ribeiro Paschoalino	Confirmation No. 7582
Application No.	: 11/226,800	
Filed	: September 13, 2005	
Title	: ANTI-FRICTION THRUST BEARING CENTERING DEVICE FOR HERMETIC REFRIGERATION COMPRESSORS	
Grp./Div.	: 2837	
Examiner	: Tyrone W. Smith	
Docket No.	: 54249/O107	

RESPONSE TO DECISION ON PETITION TO WITHDRAW AS

ATTORNEY OF RECORD UNDER 37 C.F.R. § 1.36(B)

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

Post Office Box 7068
Pasadena, CA 91109-7068
March 30, 2007

Commissioner:

The undersigned's Application to Withdraw as Attorneys of Record dated July 24, 2006 regarding the subject application has been denied in the March 21, 2007 Decision, for the reasons that the undersigned did not set forth the necessary reasons. The undersigned hereby supplements the Application to Withdraw with the following:

1. Requests to the Applicant through its attorneys for payment of overdue invoices of the undersigned have not resulted in payment.

2. The undersigned has given notice to the Applicant through its attorneys that the undersigned is withdrawing from employment and will be filing the necessary papers with the Patent and Trademark Office.

3. The undersigned has delivered to the Applicant through its attorneys all papers in the file concerning the prosecution of the application.

4. The undersigned has notified the Applicant of any responses that may be due and the time frame within which Applicant must respond.

5. The undersigned has given notice of withdrawal from employment at least two months prior to the expiration of any response period.

In view of the foregoing, approval of the request to withdraw is hereby requested.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By D Bruce Prout
D. Bruce Prout
Reg. No. 20,958
626/795-9900

DBP/mac

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

In re Application of	:	
Marcelo R. Paschoalino	:	
Application No. 11/226,800	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO WITHDRAW
Attorney Docket No. 54249/DBP/O107	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 12, 2006.

The request is **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 D. Bruce Prout on behalf of all attorneys of record who are associated with customer No. 23363.

All attorneys/agents associated with the Customer Number 23363 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: MARCELO RIBEIRO PASCHOALINO
RUA GENERAL OSORIO
322, SAO CARLOS, SP BRAZIL

cc: TECUMSEH DO BRASIL LTDA
C/O OCTAVIO & PEROCCO
S/C LTDA.,
PO BOX 2456
01060-970 SAO PAULO, BRAZIL

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/226,800	09/13/2005	Marcelo Ribeiro Paschoalino	54249/DBP/O107

CONFIRMATION NO. 6146

OC000000023360366

OC000000023360366

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Date Mailed: 04/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2006.

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

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

FORMER ATTORNEY/AGENT COPY

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PO BOX 7068
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In re Application of	:	
Marcelo R. Paschoalino	:	
Application No. 11/226,800	:	DECISION ON PETITION
Filed: September 13, 2005	:	TO WITHDRAW
Attorney Docket No. 54249/DBP/O107	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 12, 2006.

The request is **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 D. Bruce Prout on behalf of all attorneys of record who are associated with customer No. 23363.

All attorneys/agents associated with the Customer Number 23363 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: MARCELO RIBEIRO PASCHOALINO
RUA GENERAL OSORIO
322, SAO CARLOS, SP BRAZIL

cc: TECUMSEH DO BRASIL LTDA
C/O OCTAVIO & PEROCCO
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/226,800	09/13/2005	Marcelo Ribeiro Paschoalino	54249/DBP/O107

CONFIRMATION NO. 6146

OC000000023360366

OC000000023360366

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Date Mailed: 04/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2006.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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Time: 12:41:36

Application Number Information

Application Number: 11/226800
Assignments

Examiner Number: **81436 / KRAUSE, JUSTIN**

Filing or 371(c) Date: **09/13/2005** eDan
Group Art Unit: **3682** [redacted]
Effective Date: **09/13/2005**
Class/Subclass: **384/617.000**
Application Received: **09/15/2005**
Lost Case: **NO**
Pat. Num./Pub. Num: **/20070058895**
Interference Number:
Issue Date: **00/00/0000**
Unmatched Petition: **NO**
Date of Abandonment: **00/00/0000**
L&R Code: Secrecy Code:**1**
Attorney Docket Number:
Third Level Review: **NO**
Secrecy Order: **NO**
Status: **30 /DOCKETED NEW CASE - READY FOR EXAMINATION**
Status Date: **11/18/2005**
Confirmation Number: **6146**
Oral Hearing: **NO**
Title of Invention: **ANTI-FRICTION THRUST BEARING CENTERING DEVICE FOR HERMETIC REFRIGERATION COMPRESSORS**

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location

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

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Dascenzo Intellectual Property Law, P.C.
522 SW 5th Ave
Suite 925
Portland, OR 97204-2126

Mail Date: 04/21/2010

Applicant	: David J. Edlund	: DECISION ON REQUEST FOR
Patent Number	: 7632322	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,810	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **410** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GUERRY LEONARD GRUNE
784 S VILLIER CT.
VIRGINIA BEACH VA 23452

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APR 27 2009

OFFICE OF PETITIONS

In re Application of
Robert w. Greer
Application No. 11/226,838
Filed: September 14, 2005
Attorney Docket No. LKF-001

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 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 election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed August 21, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

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Patent No. : 7,633,122 B2
Ser. No. : 11/226,860
Inventor(s) : Otsuki
Issued : Dec. 15, 2009
Title : INSULATED GATE SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING THE SAME
Docket No. : FUJI:357

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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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PAUL LEGAARD
PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN, PA 19312

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OFFICE OF PETITIONS

In re Application of	:	
Dobie et al.	:	DECISION ON PETITION
Application No. 11/226,884	:	TO WITHDRAW
Filed: September 13, 2005	:	FROM RECORD
Attorney Docket No. RTS-0491US	:	

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

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

A review of the file record indicates that the power of attorney to practitioners associated with the above identified application has been revoked by the assignee of the patent application on June 29, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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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GEORGE L. WILLIAMSON
P.O. BOX 508
FAIRHOPE AL 36533-0508

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MAR 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Hartman, Jeffrey	:	DECISION ON PETITION
Application No. 11/226,887	:	TO MAKE SPECIAL
Filed: September 15, 2005	:	37 CFR 1.102(c)
Title: CHECK VALVE FOR CAM LOCK FITTING	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed February 17, 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 Declaration submitted with the instant petition states, "... the above-identified application relates to an apparatus for preventing inadvertent, pressurized discharges of liquid from a hose connected to a cam lock fitting equipped with the present invention." Further, "the invention will enable a user to stop back flow of liquid from a disconnected cam lock fitting by providing a check valve which is more easily operated than conventional check valves on conventional cam lock fittings." Applicant's invention is considered to be merely ancillary to the possibly maintenance of the basic life-sustaining elements. There is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements." The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3753 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEORGE L. WILLIAMSON
P.O. BOX 508
FAIRHOPE AL 36533-0508

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OFFICE OF PETITIONS

In re Application of	:	
Hartman, Jeffrey	:	
Application No. 11/226,887	:	ON PETITION
Filed: September 15, 2005	:	
Title: CHECK VALVE FOR CAM LOCK FITTING	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(i), filed March 27, 2006, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section V: Environmental Quality.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i), MPEP § 708.02, Section V: Environmental Quality must be accompanied by statements by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the inventions contribute to the restoration or maintenance of one of the basic life-sustaining natural elements, i.e., air, water, and soil. No fee is required

The instant petition includes a Declaration from the attorney of record, George L. Williamson. The petition states, "This invention will materially enhance the quality of the environment by minimizing air emissions of the A2 and A4 type described in Exhibit A." Petitioner submitted two exhibits with the instant petition, which included a U.S. Environmental Protection Agency document detailing Toxic Release Inventory Air Emissions, and a Material Safety Data Sheet for Gasoline. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3753 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS MO 63105

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Putnam et al.	:	
Application No. 11/226,892	:	DECISION DISMISSING PETITION
Filed: September 13, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IP-0018-US (830-18US)	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed March 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In

addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Petitioner should review the claim submitted to ensure that a reference is made to the first application and to every intermediate application.

It appears that the chain is missing between Application No. 10/661,836 and 10/645,689. Petitioner contends that 10/661,836 is a continuation-in-part of 10/645,689. A review of USPTO records does not appear to support this claim.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] identifying a proper nonprovisional application, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is required.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS MO 63105

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of	:
Putnam et al.	: DECISION ON PETITION
Application No. 11/226,892	: UNDER 37 CFR 1.78(a)(3)
Filed: September 13, 2005	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. IP-0049-US (830-0049US)	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed June 11, 2010, 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 amendment filed March 22, 2010.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on September 13, 2005 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1797 for appropriate action on the Amendment submitted March 22, 2010, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/226,892	09/13/2005	1797	1543	IP-0049-US (830-0049US)	18	3

CONFIRMATION NO. 6640

CORRECTED FILING RECEIPT

38790
THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS, MO 63105

OC000000042388596

Date Mailed: 07/02/2010

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)

Martin A. Putnam, Cheshire, CT;
Richard L. Lemoine, Canton, CT;

Power of Attorney:
William Barber--32720
Gerald DePardo--36121
John Murphy--50583
Stefanie Valentini--52311

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/609,583 09/13/2004
and claims benefit of 60/610,910 09/17/2004
and claims benefit of 60/610,833 09/17/2004
and is a CIP of 10/661,836 09/12/2003 PAT 7,399,643
which is a CIP of 10/645,689 08/20/2003 ABN
and claims benefit of 60/410,541 09/12/2002
This application 11/226,892
is a CIP of 11/063,665 02/22/2005 ABN
which claims benefit of 60/546,435 02/19/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/226,892**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Method and apparatus for aligning microbeads in order to interrogate the same

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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Steinfl & Bruno
301 N Lake Ave Ste 810
Pasadena, CA 91101

Mail Date: 04/21/2010

Applicant	: Bedabrata Pain	: DECISION ON REQUEST FOR
Patent Number	: 7615808	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **67** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/226,905	09/14/2005	Reinhard Oberstarr	114116-144627

CONFIRMATION NO.
6659

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

Date Mailed: March 3, 2006

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101-2410

COPY MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Gonsalves	:	
Application No. 11/226,912	:	DECISION
Filed: 14 September, 2005	:	
Attorney Docket No. 46872-319921	:	

This is a decision on the petition filed on 26 January, 2009, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action mailed on 17 April, 2008, with reply due absent extension of time on or before 17 July, 2008.

On 17 July, 2008, Petitioner filed an amendment after final, which the Examiner refused to enter and Petitioner–as one registered to practice before the Office—knew was not as of right and not

a proper reply[1] if it did not *prima facie* place the application in condition for allowance, and on 11 August, 2008, the Examiner mailed an Advisory Action.

On 15 October, 2008, Petitioner filed, *inter alia*, a request and fee for extension of time with a second amendment after final, which the Examiner refused to enter and on 14 November, 2008, the Examiner mailed another Advisory Action.

The application went abandoned after midnight 17 October, 2008.

The Office mailed a Notice of Abandonment on 19 November, 2008.

On 26 January, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

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[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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.

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1795 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of :
Gonsalves :
Application No. 11/226,912 : ON APPLICATION FOR
Filed: September 14, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 46872-319921 :

This is in response to the Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance, filed April 29, 2010. The petition will be treated under 37 C.F.R. § 1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is sixty-eight (68) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/226,928	09/13/2005	Umesh S. Muchhal	067461-5021-US	5811

7590 07/10/2008
MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

EXAMINER
BORIN, MICHAEL L

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
07/10/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty J. Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/226,928	09/13/2005	Umesh S. Muchhal	067461-5021-US	5811

67374 7590 07/10/2008
MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

EXAMINER
BORIN, MICHAEL L

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
07/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Replin. Ref: 07/14/2008 DTERRY 00142643 00
DA#:500310 Name/Number:11226928
FC: 9204 $275.00 CR

Notice of Abandonment	Application No.	Applicant(s)	
	11/226,928	MUCHHAL, UMESH S.	
	Examiner	Art Unit	
	Michael Borin	1631	

-- 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:

BETTY POWELL
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

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HAMILTON BROOK SMITH AND REYNOLDS PC
530 VIRGINIA RD
PO BOX 9133
CONCORD MA 01742-9133

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APR 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Sherman, et al.	:	DECISION ACCORDING STATUS
Application No. 11/226,929	:	UNDER 37 CFR 1.47(a)
Filed: September 14, 2005	:	
Attorney Docket No. 3211.1015-001	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 10, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventor Vaghefi has refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the $200 petition fee is acknowledged.

The matter is being forwarded to Group Art Unit 1614 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DR FARID VAGHEFI
7 COLBURN ST
BURLINGTON MA 01803

COPY MAILED
APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Matthew L. Sherman, Farid Vaghefi, Lan :
Bo Chen :
Application No. 11/226,929 :
Filed: September 14, 2005 : LETTER
Title: Bis (Thio-Hydrazide Amides) for :
Treatment of Hyperplasia :

Dear Dr. Vaghefi:

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

Steven G. Davis
Hamilton Brook Smith & Reynolds
530 Virginia Rd
PO Box 9133
Concord MA 01742-9133
(978)341-0036

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APR 26 2006
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HAMILTON BROOK SMITH AND REYNOLDS PC
530 VIRGINIA RD
PO BOX 9133
CONCORD MA 01742-9133

~~COPY MAILED~~
~~APR 25 2006~~
~~OFFICE OF PETITIONS~~

In re Application of	:	
Sherman, et al.	:	DECISION ACCORDING STATUS
Application No. 11/226,929	:	UNDER 37 CFR 1.47(a)
Filed: September 14, 2005	:	
Attorney Docket No. 3211.1015-001	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 10, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventor Vaghefi has refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the $200 petition fee is acknowledged.

The matter is being forwarded to Group Art Unit 1614 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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FRASER MARTIN & MILLER LLC
132 WEST SECOND STREET
PERRYSBURG OH 43551

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MAY 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Arthur VENDETTI et al.	:	
Application No. 11/226,950	:	DECISION GRANTING
Filed: September 16, 2005	:	PETITION
Attorney Docket No. 1-37390	:	

This is a decision on the petition filed March 3, 2006, requesting that the above-identified application be accorded a filing date of September 15, 2005, rather than the presently accorded date of September 16, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on September 15, 2005 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV595655945US bears a handwritten "date-in" of September 16, 2005; petitioner has included a copy of the U.S. Postal Service (USPS) Track & Confirm, which includes a USPS receipt date of September 15, 2005. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is September 15, 2005. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on September 15, 2005, as shown by the USPS Track & Confirm receipt date. Accordingly, this application is entitled to a filing date of September 15, 2005, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to September 15, 2005 and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to David Bucci at (571) 272-7099.

Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/226,950	09/15/2005	3714	565	1-37390	7	20	3

CONFIRMATION NO. 8379

CORRECTED FILING RECEIPT

OC000000018686863

43935
FRASER MARTIN & MILLER LLC
132 WEST SECOND STREET
PERRYSBURG, OH 43551

Date Mailed: 05/04/2006

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)

Arthur Venditti, Peabody, MA;
Kevin J. Black, Holland, OH;

Power of Attorney: The patent practitioners associated with Customer Number **43935**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/226,950

Projected Publication Date: 03/15/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Remote controlled model vehicle

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/226,956	09/15/2005	Natsuki Kobayashi	UNIU79.058AUS	6097

20995 7590 02/26/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
TRAN, THAO T

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
02/26/2009	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):

jcartee@kmob.com
eOAPilot@kmob.com

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Mailed: 2/26/09

In re application of :
Natsuki Kobayashi et al. : DECISION ON
Serial No. 11/226,956 : PETITION
Filed: September 15, 2005 :
For: Pressure-Sensitive Adhesive Compositions, Pressure-Sensitive Adhesive Sheets and Surface Protecting Films

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 03, 2008.

On April 11, 2008, a non-final office action was mailed to Applicants. A reply to the office action was filed by Applicants on July 10, 2008. In the reply, Applicants made amendments to the claims including amending claim 1 and claim 17 and re-writing claim 4 in independent form. On November 03, 2008, a final office action was mailed.

On January 05, 2009, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the November 03, 2008 office action.

Applicants' position for the withdrawal of the finality is that the new grounds of rejection in the final office action regarding claim 4 were not necessitated by Applicants' amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that because claim 4 was merely rewritten in independent form, the new grounds of rejection applied by the examiner to this claim under 35 USC 112, first paragraph and then made final were improper. This argument is persuasive. The office action states that claim 1 and claim 17 are rejected under 112, first paragraph given that each contain the newly added limitation "not having reactive substituents therein" which is not supported anywhere in the specification. Claim 4 is also indicated as rejected under 112, first paragraph, however, claim 4 is now independent and no longer depends on claim 1 and further the claim as amended does not include the cited phrase indicated by the examiner as not having support. The amendment to claim 4 did not require the new grounds of rejection in the final office action.

Because the rejection of claim 4 based on a new ground of rejection was improper, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. It is also noted that Applicants filed a timely amendment on January 05, 2009. This amendment will be treated as an amendment after a non-final office action and will be entered. The application is being forwarded to the Examiner for consideration of said amendment and appropriate action thereon.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Natsuki Kobayashi, et al.	:	
Application No. 11/226.956	:	DECISION GRANTING PETITION
Filed: September 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. UNIU79.058AUS	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 19, 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 March 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Peter J. Connolly	: DECISION ON REQUEST FOR
Patent Number	: 7659284	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/226,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **605** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HOGAN & HARTSON LLP
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

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NOV 0 5 2008

In re Application of	:	
Larry ALBUKERK, et al	:	
Application No. 11/226,997	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. 25137.0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 29, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Troy M. Schmelzer does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: LARRY ALBUKERK
1547 FRANCISCO STREET
SAN FRANCISCO, CA 94123

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OCT 22 2007
TECHNOLOGY CENTER 2800

Canon U.S.A., Inc.
Intellectual Property Division
15975 Alton Parkway
Irvine, CA 92618-3731

In re Application of	:	**DECISION ON REQUEST TO**
Akihiro KUSHIDA	:	**PARTICIPATE IN PATENT**
Application No. 11/227000	:	**PROSECUTION HIGHWAY**
Filed: September 14, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 05503821US01	:	**TO MAKE SPECIAL UNDER**
For: OPHTHALMIC IMAGE PICKUP APPARATUS, OPHTHALMIC IMAGE PICKUP METHOD *etc.*	:	**37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 11, 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, or a national stage application under PCT which validly claims priority under 35 U.S.C. 119(a)/365(b) 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).

Regarding the requirement of condition (4), a review of the file reveals that a Notice of Allowance was mailed on October 5, 2007.

CONCLUSION

For the above reasons, the "Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the JPO and the USPTO" filed September 11, 2007 is **DISMISSED** without prejudice.

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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JACK OISHER
200 HIGH POINT DRIVE
SUITE PH2
HARTSDALE NY 10530

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OFFICE OF PETITIONS

In re Application of	:	
Ellman et al.	:	
Application No. 11/227,041	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. PAT112DIV2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 22, 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.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Petitioner submitted $255.00 towards payment of the $770.00 petition fee. Accordingly, an additional $515.00 will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3739 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of :
Crumrine et al. :
Application No. 11/227,152 : ON PETITION
Filed: September 16, 2005 :
Attorney Docket No. 12055-0014 :
Title of Invention: Life vest With Integrated :
Audio Device and Method of Use

This is a decision on the petition under 37 CFR §1.181 filed August 11, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This application was held abandoned March 9, 2006 for failure to timely reply to the non-final Office Action mailed on December 8, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed July 25, 2006.

Petitioner contends a reply to the non-final Office Action was received in the Office on April 10, 2006. Petitioner states that the reply which included an amendment, request for one month extension of time and a check in the amount of $60.00, were submitted on April 10,2006. In support of petitioner's contention, petitioner has submitted a stamped postcard receipt. Petitioner has also provided a copy of the amendment.

A review of the evidence presented shows that the response contained the incorrect application number. The correct application number is **11**/227,152., not 10/227,152 which was included on the amendment, request for extension of time and the postcard receipt. The amendment did contain the correct art unit, name of the examiner, attorney

docket number, filing date and title of invention.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted April 10, 2006 has been located in application no. 10/227,152. the Office. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to the Art Unit 3617 for further processing of the amendment submitted on April 10, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEONARD INESON
UNIT#33
2280 MUNN'S AVENUE EAST
OAKVILLE ON L6H 3L1 CA CANADA

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Leonard Ineson	:	
Application No. 11/227,153	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 053 LI-12-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 5, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 6, 2005.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Leonard Ineson
3574 Pitch Pine Crescent
Mississauga, Ontario
L5L 1P8

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/227,196	09/16/2005	Ryoichi Imaizumi	SON-3419	6414

7590 12/20/2007
RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER
ETIENNE, ARIO

ART UNIT	PAPER NUMBER
2157	

MAIL DATE	DELIVERY MODE
12/20/2007	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

04 FC:1201 200.00 CR

02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of

PUZIO, Daniel et al.
Application No. 11/227,200
Filed: September 16, 2005
Attorney Docket No. **0275L-000980/US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 05, 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 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 to withdraw less than all attorneys appointed by customer number 30593 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Koshi Maeda	: DECISION ON REQUEST FOR
Patent Number	: 7585628	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,233	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **513** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Patent No. 7,368,107 :
Application No. 11/227,238 :
Filed: September 16, 2005 ON PETITION
Issued: May 6, 2008 :
Attorney Docket No. 0020-4792PUS2 :

This is a decision on the petition filed August 13, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the first assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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BERENATO, WHITE & STAVISH
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

In re Application of
David Allen and Mark Allen
Application No.: 11/227,258
Filed: September 16, 2005
Attorney Docket No: 5211.041
For: LED ASSEMBLIES AND LIGHT STRINGS CONTAINING THE SAME

: DECISION ON PETITION
: UNDER 37 CFR 1.48 and
: PETITION under 37 CFR 1.183 to
: WAIVE THE REQUIREMENTS OF
: 37 CFR 1.48(a) and DECISION
: ACCORDING STATUS UNDER
: 37 CFR 1.47
:

This is in response to the "Petition for Correction of Inventorship under 37 CFR 1.48 and 37 CFR 1.47(b)", filed June 1, 2007. The petition will be treated as a petition under 37 CFR 1.47(a)[1], 1.48(a), and as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a).

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a) is **GRANTED.**

The petition under 37 CFR 1.48 is **GRANTED.**

The petition under 37 CFR 1.47(a) is **GRANTED.**

The subject application was filed on September 16, 2005, listing only a sole inventor and providing an executed declaration under 37 CFR 1.63 for the inventor with the original disclosure of the application. On June 1, 2007, the instant petition was filed wherein petitioner states that Mark Allen should be added as a joint inventor on the application, but that Mr. Mark Allen not cooperating with the prosecution of the application.

TREATMENT UNDER 37 CFR 1.183 to WAIVE THE REQUIREMENTS OF 37 CFR 1.48(a).

If the inventive entity, as set forth in the executed declaration under 37 CFR 1.63, is in error, the inventive entity may be amended to name only the actual inventor or inventors. The amendment of the inventorship must be by way of petition. A grantable petition under 37 CFR 1.48 requires:

1) A request to correct the inventorship that sets for the required inventorship change;
2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
4) The processing fee set for in § 1.17(i)

[1] Although the petition was filed under 37 CFR 1.47(b), the petition is more appropriately treated under 37 CFR 1.47(a) because there is at least one cooperative joint inventor for the application.

5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Petitioner has requested that Mark Allen be added as an inventor on the application, however; petitioner is not able to get a statement from Mark Allen that the error in inventorship occurred without deceptive intent because Mr. Allen is refusing to join the prosecution of the application. Accordingly, the instant petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) is necessary in order for the petition under 37 CFR 1.48 to be considered grantable. The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) is granted.

Deposit account 50-0548 will be charged $400.00 for the petition fee.

TREATMENT under 37 CFR 1.48(a)

The instant petition has satisfied the requirements of 37 CFR 1.48(a) and 37 CFR 1.183 waiving the requirements of 37 CFR 1.48(a)(2). The requirement of 37 CFR 1.48(a)(3) that an executed declaration by the actual inventors be filed is being satisfied by the petition under 37 CFR 1.47(a). The petition under 37 CFR 1.48(a) is also granted. Mark Allen is being added as a joint inventor on the application. A corrected filing receipt is enclosed.

TREATMENT UNDER 37 CFR 1.47(a)

Petitioner has shown that inventor Mark Allen has refused to join the filing of 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 inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $200.00 will be charged to deposit account 50-0548.

This application will be forwarded to Technology Center 2800, GAU 2875 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/227,258	09/16/2005	2875	500	5211.041	10	1

CONFIRMATION NO. 7685

CORRECTED FILING RECEIPT

BERENATO, WHITE & STAVISH
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

OC000000027106621

Date Mailed: 12/05/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Allen, Yardley, PA;
Mark Allen, Encinitas, CA;

Power of Attorney: The patent practitioners associated with Customer Number 28410

Domestic Priority data as claimed by applicant

This application is a CON of 10/755,463 01/13/2004 PAT 7,066,628
which is a CIP of 10/243,835 09/16/2002 PAT 6,830,358
which is a CON of 09/819,736 03/29/2001 PAT 6,461,019
which is a CON of 09/339,616 06/24/1999 ABN
which is a CIP of 09/141,914 08/28/1998 PAT 6,072,280
and claims benefit of 60/119,804 02/12/1999

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/227,258**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

LED assemblies and light strings containing same

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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Paper No. None

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington DC 20037

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Peter Soderstrom :
Application No. 11/227,261 :
Filed: September 16, 2005 :
Attorney Docket No.: :
B1705.0003/P003-A :
Title: MEN'S UNDERWEAR WITH AN :
ADJUSTABLE SUPPORT SLING :

DECISION ON PETITION

This is a decision on the petition filed December 5, 2005, requesting that the above-identified application, including Figures 1-2, be accorded a filing date of September 16, 2005 as part of the original disclosure.

The application was deposited on September 16, 2005. However, on October 11, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings. The notice further indicated that a substitute specification would be required.

In response, on December 5, 2005, applicants filed the present petition. The petition is further accompanied by a single sheet of drawings containing Figures 1-2, along with a substitute specification and a copy of applicants' postcard receipt acknowledging receipt of "2 drawings (1 sheets)," a "specification (8 pages)," and a "Substitute Spec (Markup and Clean)" in the United States Patent and Trademark Office (Office) on September 16, 2005. Applicants request that both Figures 1-2 and the substitute specification be accorded a filing date of September 16, 2005.

Neither the substitute specification nor the drawings have been located among the application papers in the electronic file. However, the evidence is convincing that the application papers deposited on September 16, 2005 included these 2 figures as well as the substitute

specification, and each of these sheets was subsequently misplaced in the Office.

Therefore, the application, including Figures 1-2 and a substitute specification, was complete on filing and entitled to a filing date of September 16, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed October 11, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account in due course.

OIPE will be notified that the application should receive a filing date of September 16, 2005, using the original application papers filed on that date, as well as Figures 1-2 and the substitute specification submitted on December 5, 2005, and it will be noted in Office records that these sheets of drawings were present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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FEB 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark W. McBride et al.	:	
Application No. 11/227,277	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. DSCOPE 3.0-039	:	

This is a decision on the petition, filed January 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is DATASCOPE INVESTMENT CORP., Montvale, New Jersey and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to DATASCOPE INVESTMENT CORP., Montvale, New Jersey.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to DATASCOPE INVESTMENT COPR., Montvale, New Jersey has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that DATASCOPE INVESTMENT CORP., Montvale New Jersey was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth** DATASCOPE INVESTMENT CORP., Montvale, New Jersey**, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision **must** accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Carl Friedman
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 06/14/2010

Applicant	: Jeffrey Lynn Heath	: DECISION ON REQUEST FOR
Patent Number	: 7639469	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/227,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **644** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070716

DATE : July 16, 2007

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction on Patent No.: 7,216,591

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Certificate of correction fails to include reference to original parent application No. 09/339,932, filed on Jun. 25, 1999, now abandoned.

SPE: Patrick H. Mackey **Art Unit** 3653

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

Mail Date: 04/29/2010

Applicant	: Gunnar Kylberg	: DECISION ON REQUEST FOR
Patent Number	: 7668443	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/227,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of Sheiretov et al. Application No. 11/227,307 Filed: September 15, 2005 Attorney Docket No. 1884.2007-002 Title: Magnetic Field Sensor Having a Switchable Drive Current Spatial Distribution	: : : : : : :	ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182, filed on June 16, 2006, to change the name of the co-inventor for the above-identified application.

The petition is **GRANTED**.

The first co-inventor's name will be changed from "Ian Constantine Shay" to **–Yanko Konstantinov Sheiretov–**.

Telephone inquiries concerning this matter 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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: David W. Jenkins	: DECISION ON REQUEST FOR
Patent Number	: 7627245	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **843** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Jin-Weon Chang	: DECISION ON REQUEST FOR
Patent Number	: 7596181	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,325	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **958** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/18/2010

Applicant : Jin-Weon Chang
Patent Number : 7596181
Issue Date : 09/29/2009
Application No : 11/227,325
Filed : 09/16/2005

: 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 **1000** 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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Patrick S. Yoder
ELETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Scott Takayuki Koizumi	: DECISION ON REQUEST FOR
Patent Number	: 7572981	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,330	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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MAIL

APR 13 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

In re Application of:
FROSOLONE, FRANK J.
Serial No.: 11/227,343
Filed: September 15, 2005
Title: **FRESH WATER INTAKE MONITORING SYSTEM AND METHOD**

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 March 16, 2007 to make the above-identified application special for countering terrorism procedure under 37 C.F.R. § 1.102(c).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

MPEP 708.02(a) states:

All petitions to make special, except those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements set forth below. See MPEP § 708.02 subsection III or IV (where appropriate) for the requirements for filing a petition to make special based on applicant's health or age.

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) and effective August 25, 2006, 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 concurrently and 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) at least because the petition and the required fees were not filed concurrently and electronically with the application papers and the application did not include twenty or fewer claims.

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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SEP 28 2009

OFFICE OF PETITIONS

OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

In re Patent No. 7,439,256	:	
Castelhano et al.	:	DECISION ON
Issue Date: October 21, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 11/227,346	:	OF
Filed: September 15, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. OS-10019	:	

This is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed November 10, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from forty-eight(48) days to eighty-four (84) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 21, 2008, the above-identified application matured into U.S. Patent No. 7,439,256 with a patent term adjustment of 48 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees request recalculation of the patent term adjustment and reference the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees request recalculation of the patent term adjustment to include a 36 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 36 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 145 days.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 36 days. This 36 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on September 15, 2005, and the patent having not issued until October 21, 2008, three years and 36 days later. Patentees assert that in addition to this 36 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) of 145 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). A restriction requirement was mailed on April 9, 2007, 14 months and 145 days after the application was filed on September 15, 2005.

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 97 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (36 days) and the period of Examination Delay (145 days) to the extent that these periods of delay are not overlapping.

Patentees contend that no portion of the two periods of delay overlap. Accordingly, patentees submit that the total period of Office Delay is 181 days, which is the sum of the period of Three Year Delay (36 days) and the period of Examination Delay (145 days), reduced by the period of overlap (0 days).

The period of reduction of 97 days for applicant delay is not in dispute. As such, patentees assert entitlement to a patent term adjustment of 84 days (36 +145 reduced by 0 overlap - 97 for applicant delay).

The Office agrees that the patent issued 3 years and 36 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 145 days is correct. At issue is whether patentees should accrue 36 days of patent term adjustment for the Office taking in excess of three

years to issue the patent, as well as, 145 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 36 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap

> with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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 the application was pending before the Office, September 15, 2005 to October 21, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 145 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. During that time, the issuance of the patent was delayed by 145 days, not 145 + 36 days. The Office took 14 months and 145 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 145 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 36 days after its filing date. The Office did not delay 145 days then an

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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).

additional 36 days. The 36 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 145 days attributable to ground specified in § 1.702(a)(1). Entry of both periods is not warranted.

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 revised determination of patent term adjustment at the time of the issuance of the patent is 48 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.

Alesia M. Brown
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Kwabena Asante	: DECISION ON REQUEST FOR
Patent Number	: 7585182	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : October 29, 2009

TO SPE OF : ART UNIT 2612 - Benjamin C. Lee

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/227,376 Patent No.: 7,307,520 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Benjamin C. Lee/ SPE 2612

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 07/01/2010

Applicant	: Mauricio Arregoces	: DECISION ON REQUEST FOR
Patent Number	: 7643468	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/227,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **958** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,597,924	: DECISION ON REQUEST FOR
Kondyurin et al.	: RECONSIDERATION OF
Issue Date: October 6, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/227,378	: and
Filed: September 15, 2005	: NOTICE OF INTENT TO ISSUE
Atty Docket No.: S63.2R-14499-US02	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 3, 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 six hundred and ninety-five (695) 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 six hundred and ninety-five (695) 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 **six hundred and ninety-five (695) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson

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 : 7,597,924 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : **Kondyurin 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 386 days

Delete the pnrase "by 386 days" and insert – by 695 days --

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HAYNES AND BOONE, LLP
IP Section
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Schwager, et al.	:	
Application No. 11/227,391	:	DECISION ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. 16356.942 (DC-08947)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2009, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 17, 2009. Accordingly, the date of abandonment of this application is March 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : December 30, 2009

Patent No. :7,566,033
Inventor(s) :Schwager, Mark A. et al.
Issued :September 15, 2005
Title :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent.

Applicants' proposed request to change data pertaining to claims 1, 5 and 9 is not warranted as the changes presented in the Letters Patent is the result of a decision made by the examiner at the time of allowance and is therefore considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied. Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-7541. ext. 123.

A Green

Mary Diggs, Supevisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1544

Haynes and Boone, LLP
2323 Vicotry Avenue, Ste 700
Dallas, Texas 75219

/arg

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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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Larry William Finn	: DECISION ON REQUEST FOR
Patent Number	: 7605763	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **411** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Thomas J. Carroll JR.	: DECISION ON REQUEST FOR
Patent Number	: 7571426	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,413	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Sugimoto, Choquehuanca and Herman	:	
Application No. 11/227,434	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 4052-227	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 1, 2006. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor cannot be located to join in the filing of the above-identified application. Copies of the returned correspondence mailed to the non-signing inventor by petitioner, accompany the petition.

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 last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being forwarded to Technology Center Art Unit 3739 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Tania Choquehuanca
1934 Wingleaf Drive
Houston, TX 77084

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Sugimoto, Choquehuanca and Herman	:	
Application No. 11/227,434	:	LETTER
Filed: September 16, 2005	:	
Attorney Docket No. 4052-227	:	

Dear Ms. Choquehuanca:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JUL 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,571,831	:	
Lauer et al.	:	DECISION DISMISSING
Issue Date: August 11, 2009	:	REQUEST FOR
Application No. 11/227,443	:	RECONSIDERATION OF
Filed: September 16, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 086554-1193	:	UNDER 37 CFR 1.705

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed July 1, 2009, which is properly treated under 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from five hundred ninety-five (595) days to nine hundred ninety-four (994) days, assuming the patent had issued on October 20, 2009.

Preliminarily, applicants request that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 595 days.

BACKGROUND

On August 11, 2009, the application matured into U.S. Patent No. 7,571,831, with a revised patent term adjustment of 595 days.

The Office determined that the 329 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 657 days[2] of examination delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1).[3] As such, the Office allowed only entry of the adjustment of 657 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 62 days, the patent issued with a revised patent term adjustment of 595 (657 - 62) days.

On July 1, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 994 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts

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[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] A first non-final Office action was not mailed until September 3, 2008, fourteen months and 657 days after the application was filed on September 16, 2005.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1,056 (657 + 399) days as these periods do not occur on the same day. Further, given the applicant delay of 62 days, patentee asserts entitlement to 994 (1,056 - 62) days of patent term adjustment.

OPINION

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 Year Delay") based on a projected patent issuance date of October 20, 2009. Furthermore, patentees used the incorrect Three Year Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 329 days (not 399 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), September 17, 2008, and ending on the date the patent issued, August 11, 2009.

The Office has considered patentee's interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office

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[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under

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).

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

---

this section shall not exceed the actual number of days the issuance of the patent was delayed.

the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the filing of the application under 35 U.S.C. 111(a) on September 16, 2005, and ending on the date of the issuance of the patent on August 11, 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), 657 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), 329 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing of the application.

All of the 329 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 657 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 657 days and the 329 days is neither permitted nor warranted. 657 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 329 days of Office delay under the three-year pendency provision.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 595 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Robert W. Lauer	: DECISION ON REQUEST FOR
Patent Number	: 7571831	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
BELLEAU, Marc et al.
Application No. 11/227,447
Filed: September 15, 2005
Attorney Docket No. **2242.001US1**

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 05, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, P.A. has been revoked by the assignee of the patent application on June 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 Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PEPPER HAMILTON LLP**
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 05/03/2010

Applicant	: Steven A. Malmskog	: DECISION ON REQUEST FOR
Patent Number	: 7644108	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/227,451	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **228** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of

Robert Kaiser
Application No. 11/227,452
Filed: September 16, 2005
Attorney Docket No. 543822017600

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. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Kaiser**
Kolpingstr. 41
Kaufering, 86916
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
11/227,452	09/16/2005	Robert Kaiser	543822017600

CONFIRMATION NO. 5787

OC000000025871519

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/18/2007

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.

J. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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GLEN E. SCHUMANN
C/O MOSS & BARNETT
90 SOUTH SEVENTH STREET
4800 WELLS FARGO CENTER
MINNEAPOLIS MN 55402-4129

In re Application of	:	
Matthew C. Shankweiler	:	
Application No. 11/227,455	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. 46979.2	:	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 22, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the attorney cannot withdraw using the Customer Number when the power of attorney was not originally granted by Customer Number in the Combined Declaration and Power of Attorney filed October 26, 2005.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :

Matthew C. Shankweiler :
Application No. 11/227,455 : DECISION ON PETITION
Filed: September 15, 2005 : TO WITHDRAW
Attorney Docket No. 46979.2 : 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 3, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by David L. Biek on behalf of all attorneys of record who are associated with the above application.

All attorneys/agents associated with the above application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Matthew C. Shankweiler at the address list listed in the request.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Matthew C. Shankweiler
10825 50th Place North
Plymouth, MN 55442

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RALEIGH NC 27627

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In re Application of:
MANGUM, Peter Marshall
Application No.: 11/227,465
Filed: September 15, 2005
Attorney Docket No.: 9314-127

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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
Harunori Imagawa et al. :
Application No. 11/227,474 : DECISION ON PETITION
Filed: September 15, 2005 : TO WITHDRAW
Attorney Docket No. 14225 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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DAVID W. HIGHET, VP & CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
(ALSTON & BIRD LLP)
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of
Neil F. Robbins et al.
Application No. 11/227,489
Filed: September 16, 2005
Attorney Docket No. 035510/343582

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 9, 2009 for failure to timely file a reply to the final Office action mailed July 8, 2009. Accordingly, a Notice of Abandonment was mailed March 9, 2010.

The present petition under 37 CFR 1.137(b) is accompanied by an amendment.

The Examiner has determined that the amendment filed with the present petition places the application in condition for allowance.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The matter is being referred to Technology Center 1797.

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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OFFICE OF PETITIONS

PHILIP S. JOHNSON, ESQ.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Patent No. 7,618,945	:	DECISION ON
Zhang, et al.	:	REQUEST FOR
Issue Date: November 17, 2009	:	RECONSIDERATION OF
Application No. 11/227,504	:	PATENT TERM ADJUSTMENT
Filed: September 15, 2005	:	and
Atty Docket No. PRD-2027 DIV	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 15, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by **two hundred twenty-six (226)** 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 **two hundred twenty-five (225)** days.

The period of patent term adjustment is the sum of the period of delay under 35 U.S.C. §154(b)(1)(A)("A Delay") and the period of delay under 35 U.S.C. §154(b)(1)(B)("B Delay") reduced by the number of days of overlap between A Delay and B Delay and reduced by the period of delay under 35 U.S.C. §154(b)(2)(C)("Applicant Delay").

The period of A Delay (225 days), the period of B Delay (261) and the Applicant Delay (91 days) are not in dispute.

With respect to the period of adjustment for the Office taking in excess of three years to issue the patent, 35 U.S.C. §154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. The petition asserts that the number of overlapping days is 169; however, the period of overlap beings on September 16, 2008 and ends on March 4, 2009. Therefore, 170 of the days of B Delay overlap with the 225 days of A Delay.

The proper patent term adjustment is 225 days which is the sum of 225 days of A Delay and 261 days of B delay reduced by 170 days of overlapping delay and 91 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant 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 Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred twenty-five (225)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shriene W. Brantley at (571) 272-3230.

Shirene Willis Brantley

Shirene W. Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,618,945 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : Zhang et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 171 days

Delete the phrase "by 171 days" and insert – by 225 days--

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Chicago IL 60604-3606

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In re Application of	:	
Shinsuke Koga	:	
Application No. 11/227,512	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. 14224	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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53 W JACKSON BOULEVARD
CHICAGO IL 60604-3606

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In re Application of	:	
Shinsuke Koga	:	
Application No. 11/227,512	:	DECISION ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. 14224	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed September 9, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on December 10, 2008. A Notice of Abandonment was mailed June 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00, three month extension of time fee submitted with on July 27, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The file is now being forwarded to Technology Center 3611 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Chicago IL 60604-6262

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In re Application of
Tatsuya Saito et al.
Application No. 11/227,513
Filed: March 17, 2005
Attorney Docket No. 14107

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 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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In re Application of :
Nathan KAPLAN et al. :
Application No. 11/227,514 : DECISION ON PETITION
Filed: September 15, 2005 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 09, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 06, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 06, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In

re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b).
Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 07, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Us Corporations, Inc. was counsel of record at the time of abandonment, the attorneys should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed. Was the Notice of Abandonment received in the application file? When did the attorneys become aware of the abandonment of this application?

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), involved with this application at the time of abandonment. Statements are required from any and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

The power of attorney filed with the petition has been accepted and made of record.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision or the filing of a renewed petition under 37 CFR 1.137(b) should be directed to Tredelle Jackson at 571-272-2783

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	KAPLAN, N.	DOCKET NO:	6515P3320
SERIAL NO:	11/227,514	EXAMINER:	<NOT ASSIGNED>
FILED:	09/15/2005	ART UNIT:	<NOT ASSIGNED>

TITLE: FUNGAL AND BACTERIAL INFECTION MEDICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Weiss & Moy, P.C.
4204 N. Brown Ave.
Scottsdale, AZ 85251-3914

May 9, 2008

I hereby certify that on the 9th day of May, 2008, this correspondence is being filed electronically on EFS-Web.

/Veronica-Adele R. Cao/
Veronica-Adele R. Cao
Reg. No. 52,694

PETITION TO REVIVE ABANDONED APPLICATION PURSUANT TO 37 CFR 1.137(b)

Dear Madame or Sir:

It is respectfully requested that the above-identified patent application be revived from abandonment pursuant to 37 CFR 1.137(b) for an unintentional failure to reply to the Notice

to File Missing Parts of Nonprovisional Application mailed 10/06/2005.

Applicants hereby state that the entire delay in response was unintentional and the required reply to the Notice of Missing Parts is being filed concurrently herewith.

The petition fee of $770 set forth in 37 CFR 1.17(m) accompanies this Petition. If there are any fees incurred by this communication, please deduct them from our Deposit Account NO. 23-0830.

Respectfully submitted,

/Veronica-Adele R. Cao/

Veronica-Adele R. Cao
Reg. No. 52,694
Tel: (480) 994-8888

Weiss & Moy, P.C.
4204 N. Brown Ave.
Scottsdale, AZ 85251-3914

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 07/02/2010

Applicant	: Kappagal Joish Viswanath	: DECISION ON REQUEST FOR
Patent Number	: 7643485	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/227,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **776** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIW May-06

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

COPY MAILED

MAY 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Tobin J. Marks	:	
Application No. 11/227,559	:	DECISION GRANTING PETITION
Filed: 14 September, 2005	:	
Atty Dckt No. 8536	:	

This is a decision in reference to the petition filed on 6 February and supplemented on 7 March, 2006, 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 14 September, 2005, rather than the currently-accorded filing date of 15 September, 2005.

The petition is **granted**.

Petitioner alleges that the application was deposited in Express Mail service on 14 September, 2005. In support, on 7 March, 2006, petitioner supplied a copy of Express Mail Label No. EV717267470US (the same Express Mail number found on a transmittal sheet identifying the application accompanying the original application papers located in the official file as well as on the originally-filed specification pages). Although the "date-in" on the Express Mail label is incomplete, the label contains an Official USPS postmark dated 14 September, 2005.

As such, the showing of record is that the correct date of deposit in Express Mail is 14 September, 2005.

In view of the above, the petition is granted. No fee is required.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 14 September, 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/227,559	09/14/2005	2811	765	8536	10	28	3

CONFIRMATION NO. 7204

UPDATED FILING RECEIPT

OC000000018797177

22922
REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

Date Mailed: 05/15/2006

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)

Tobin J. Marks, Evanston, IL;
Antonio Facchetti, Chicago, IL;

Power of Attorney: The patent practitioners associated with Customer Number **22922**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/609,678 09/14/2004

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 10/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/227,559

Projected Publication Date: 08/24/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Carbonyl-functionalized thiophene compounds and related device structures

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 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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Xerox Corporation (CDFS)
445 Broad Hollow Rd.-Suite 420
Melville, NY 11747

Mail Date: 04/20/2010

Applicant	: Jin Wu	: DECISION ON REQUEST FOR
Patent Number	: 7642028	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 11/227,590	:	TO WITHDRAW
Filed: September 15, 2005	:	FROM RECORD
Attorney Docket No. XW-913	:	

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 14, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Howard J. Greenwald P.C., has been revoked by the applicant of the patent application on May 31, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

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Silicon Valley Patent Group LLP
18805 Cox Avenue
Suite 220
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Hiap L. Ong	: DECISION ON REQUEST FOR
Patent Number	: 7630033	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Noah Horton	: DECISION ON REQUEST FOR
Patent Number	: 7594031	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,596	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: John W. Syrstad	: DECISION ON REQUEST FOR
Patent Number	: 7605772	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JOHN S. BEULICK (17851)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: James Anthony West	: DECISION ON REQUEST FOR
Patent Number	: 7581401	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HELEN ODAR WOLSTONCROFT
TYCO ELECTRONIC
4550 NEW LINDEN HILL ROAD
SUITE 140
WILMINGTON, DE 19808-2952

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FEB 06 2007

OFFICE OF PETITIONS

In re Application of	:
David James Fabian et al	:
Application No. 11/227,602	: DECISION GRANTING PETITION
Filed: September 15, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. E-GI-00135	:

This is a decision on the petition, filed February 5, 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 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) 272-3218.

This matter is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re	:	
Hashimoto, et al.	:	
Application No. 11/227,606	:	DECISION ON PETITION
Filed: September 16, 2003	:	
Attorney Docket No. 1982-0282PUS1	:	

This is a decision on the Petition Under 37 C.F.R. 3.81(b), filed June 29, 2006.

The petition is **DISMISSED**.

MPEP 307 states:

> If a request for issuance to an assignee pursuant to 37 CFR 3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 CFR 3.81(b) must include a request for a certificate of correction under 37 CFR 1.323 (accompanied by the fee set forth in 37 CFR 1.20(a)) and the processing fee set forth in 37 CFR 1.17(i). The request under 37 CFR 3.81(b) must state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent. The Office will issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 CFR 3.81(b) and 37 CFR 1.323 are complied with.

Here, petitioner has not included a Certificate of Correction as required. Rather, petitioner requests that the new assignee data appear on the printed patent.

The matter is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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SEP 14 2007

OFFICE OF PETITIONS

Applicant: Kress et al.
Appl. No.: 11/227,619
Filing Date: September 15, 2005
Title: CARRIER SYSTEM FOR RECEIVING COMPONENTS
Attorney Docket No.: AIRBUS 3.0-026
Pub. No.: US 2006/0065781 A1
Pub. Date: March 30, 2006

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), received on May 30, 2006 and supplemental petition received on August 21, 2007, which is being treated as a petition to accord the application a filing date of September 15, 2005 with pages 1-10 as part of the original disclosure.

The request and the petition are granted.

Applicants request that the application be republished because the patent application publication omits the first six paragraphs of the originally filed application. Page 1 of the originally filed specification is missing from the Office records.

A copy of pages 1-10 of the specification were submitted by facsimile on August 21, 2007, including a copy of Applicant's post card receipt (stamped September 15, 2005) on August 21, 2007.

In support of the request for corrected publication, applicants submitted a copy of their stamped post card receipt on August 21, 2007. Applicants' stamped post card receipt acknowledges receipt in the United States Patent and Trademark Office on September 15, 2005 of inter alia, 10 pages of application, and 3 sheets of drawings. The evidence has been considered and it is persuasive that pages 1-10 of the specification including page 1, which is missing from the application were filed on September 15, 2005.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 or Eugenia Jones at (571) 272-7727.

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOSEPH M. BOUS
5815 SEMINARY ROAD
FALLS CHURCH, VA 22041

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OFFICE OF PETITIONS

In re Application of	:	
Joseph M. BOUS et al.	:	
Application No. 11/227,620	:	DECISION ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2007, 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 14, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 15, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (2) and (3). The petition in the above-identified application was <u>not</u> accompanied by required fee. Any fee amount paid on or after September 30, 2007 must be paid as shown in the revised fee schedule. There is a fee deficiency is $20. No consideration on the merits can be given that petition until the required fee is received.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 15, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Joseph M. Bous (Bous), Gabriel A. Assaad (Assaad) and James Marciano (Marciano) were the parties having the right to reply at the date of abandonment, Bous, Assaad and Marciano should explain why this application became abandoned while it was under their control and what efforts each made to further reply and with whom this matter was discussed. When did Bous, Assaad and Marciano become aware of the abandonment of this application? Additionally, Bous, Assaad and Marciano must explain the circumstances surrounding the discovery of the abandonment of this application almost two years after the mailing of the Notice of Abandonment.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Joseph M. Bous, Gabriel A. Assaad, James Marciano and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost eight (8) and one-half years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Joseph M. BOUS et al.
Application No. 11/227,620
Filed: September 16, 2005
Attorney Docket No.

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 03, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 14, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 15, 2005.

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 fees; (2) the petition fee of $770.00; 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 October 14, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Office of Initial Patent Examination.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Merchant & Gould - ConAgra
P.O. Box 2903
Minneapolis, MN 55402

Mail Date: 06/02/2010

Applicant	: Jorge K. Succar	: DECISION ON REQUEST FOR
Patent Number	: 7698997	: RECALCULATION of PATENT
Issue Date	: 04/20/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/227,640	: OF WYETH
Filed	: 09/15/2005	:
		:

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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SPOKANE WA 99220-2843

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OFFICE OF PETITIONS

In re Application of Michael Hebert et al Application No. 11/227,645 Filed: September 15, 2005 Attorney Docket No. GE.0049	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 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 Replacement Drawings (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of October 5, 2005, is accepted as having been unintentionally delayed.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
MICHAEL G. SMITH
1090 VERMONT AVE. NW, #800
WASHINGTON, D.C. 20005

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OFFICE OF PETITIONS

In re Application of	:	
Nocifera et al.	:	DECISION ON PETITION
Application No. 11/227,656	:	TO WITHDRAW
Filed: September 14, 2005	:	FROM RECORD
Attorney Docket No. 44814.0200	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 26, 2009.

The request is **DISMISSED**.

A review of the file record indicates that Schwegman, Lundberg & Woessner, P.A. do not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

A review of USPTO records reveals that the Power of Attorney filed June 6, 2007 was erroneously accepted on January 4, 2008. Since no Statement under 37 CFR § 3.73(b) was attached as indicated the request was improper. Accordingly, the May 9, 2008 Revocation of Power of Attorney is also invalid. In view of these facts the Power of Attorney must revert to the original Power of Attorney filed September 14, 2005.

Accordingly, all future communications from the Office will be directed solely to the above current address of record until proper instructions have been received.

Currently, petitioner has filed a Notice of Appeal on May 22, 2009 that requires a further response.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Schwegman, Lundberg & Woessner P.A.
P.O. Box 2938
Minneapolis MN 55402

cc: Ali Diab
Ripple Networks, Inc.
831 South Douglas St, Suite 137
El Segundo, CA 90245

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OFFICE OF PETITIONS

In re Application of	:	
Nocifera et al.	:	DECISION ON PETITION
Application No. 11/227,656	:	TO WITHDRAW
Filed: September 14, 2005	:	FROM RECORD
Attorney Docket No. 44814.0200	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 23, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, petitioner has filed a Notice of Appeal on May 22, 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

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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

Mail Date: 04/21/2010

Applicant	: Piero Tortoli	: DECISION ON REQUEST FOR
Patent Number	: 7591787	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **576** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Stacey C. Lum	: DECISION ON REQUEST FOR
Patent Number	: 7590733	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1036** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PATENT SERVICES
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Thomas O. Leimkuehler	: DECISION ON REQUEST FOR
Patent Number	: 7600525	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **988** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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420 Saw Mill River Road
Ardsley NY 10502

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OFFICE OF PETITIONS

In re Patent No. 7,618,965	: DECISION ON REQUEST
ANDREW CREW et al.	: FOR
Issue Date: November 17, 2009	: RECONSIDERATION OF
Application No. 11/227,697	: PATENT TERM ADJUSTMENT
Filed: September 15, 2005	: and
Atty Docket No. OS-10020	: NOTICE OF INTENT TO ISSUE
	: 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 one thousand eighty-nine (1089) 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 eighty-nine (1089) 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 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 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 eighty-nine (1089)** 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

Cc: FRANK W. FORMAN
OSI PHARMACEUTICALS
41 PINELAWN ROAD
MELVILLE NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,618,965 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : ANDREW CREW 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 692 days

Delete the phrase "by 692 days" and insert – by 1089 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW
SUITE 1200
WASHINGTON DC 20006-1109

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JUL 18 2008

In re Application of	:	
Singh, et al.	:	
Application No. 11/227,709	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. 64981.000017	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed November 28, 2007. This Office action set an extendable period for reply of three months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on February 29, 2008. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 2881 for consideration of the Amendment filed July 3, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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DANIEL L. DAWES
MYERS DAWES ANDRAS & SHERMAN LLP
SUITE 1150
19900 MACARTHUR BOULEVARD
IRVINE, CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Sharad MEHROTRA, et al	:	
Application No. 11/227,721	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. UC1.PAU.56	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 2, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph C. Andras does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAMORIANO & ASSOCIATES
8225 SHELBYVILLE ROAD
LOUISVILLE KY 40222

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Julian et al.	:	
Application No. 11/227,736	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. BAR.203CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Joon-Suh Kim	: DECISION ON REQUEST FOR
Patent Number	: 7587225	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **353** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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INTELLECTUAL PROPERTY GROUP
BOSE MCKINNEY & EVANS LLP
2700 FIRST INDIANA PLAZA
135 NORTH PENNSYLVANIA STREET
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re application of :
Glen Raque et al :
Application No. 11/227,742 :
Filed: September 15, 2005 :
Attorney Docket No. 9112-0048 :

LETTER

This is in response to the paper filed March 19, 2007 under 37 CFR 1.27(c) seeking status as a small entity.

Small entity status has been accorded.

Inquiries related to this communication 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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P.O. Box 1450
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KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of Stanley Lowry, Gracie McCall and Christopher Roth Application No.11/227,743 Filed: September 15, 2005 Attorney Docket No. 12781/320663 Title of Invention: Methods and Apparatuses for Cutting Dough Utilizing a Shaped Opening	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

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OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a) filed April 3, 2006.

The petition is GRANTED.

Petitioner has shown that non-signing inventor McCall has refused to join in the filing of the above-identified application. Petitioner has provided evidence of refusal to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gracie M. McCall
9000 Redbank Road
Germantown, NC 27019

In re Application of
Stanley Lowry, Gracie McCall and Christopher Roth
Application No.11/227,743
Filed: September 15, 2005
Attorney Docket No. 12781/320663
Title of Invention: Methods and Apparatuses for Cutting Dough Utilizing a Shaped Opening

: LETTER

Dear Mr. McCall:

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101
ATTN: JAMES LINK

UNITED STATES PATENT AND TRADEMARK OFFICE

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BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER, 200 PUBLIC SQUARE
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of Craig T. Walters et al Application No. 11/227,745 Filed: September 15, 2005 Attorney Docket No. LBI-02	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and correct drawings; (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 mailed October 7, 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 Patent Application Processing to consider the reply received October 11, 2007.

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
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J. Jason Link, Esq.
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

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APR 2 4 2006

OFFICE OF PETITIONS

In re Application of
Lowry and McCall
Application No.: 11/227,755
Filed: September 19, 2005
Attorney Docket No: 12781/320661
For: METHODS AND APPARATUSES FOR CUTTING DOUGH UTILIZING AN INSERT OR SHAPED PLATE

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed April 3, 2006.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on September 19, 2005, without a properly executed declaration. On October 3, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration and surcharge for the late filing of the same. The instant petition was filed on April 3, 2006, with a request for an extension of time within the fourth month.

Petitioner has shown that inventor McCall has refused to join the prosecution of 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 inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Garcie M. McCall
9000 Redbank Road
Germanton, NC 27019

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APR 2 4 2006

OFFICE OF PETITIONS

In re Application of
Lowry and McCall
Application No.: 11/227,755
Filed: September 19, 2005
Attorney Docket No: 12781/320661
For: METHODS AND APPARATUSES FOR CUTTING DOUGH UTILIZING AN INSERT OR SHAPED PLATE

: LETTER

Dear Inventor McCall:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

J. Jason Link, Esq.
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

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WEAVER AUSTIN VILLENEUVE SAMPSON LLP - KLA TENCOR
KLA TENCOR
P.O. BOX 70250
OAKLAND CA 94612

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SEP 15 2008

In re Application of	:
Mark Ghinovker	:
Application No. 11/227764	: DECISION ON PETITIONS
Filed: 09/14/2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. KLA1P149/P1563	:

This is a decision on the petition styled under 37 CFR § 1.78(a)(3), filed on July 9, 2008, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of prior-filed non-provisional and provisional applications set forth in the subject petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The 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 amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified

amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3) and (a)(6).[1]

Receipt of the $1,410.00 petition fee is acknowledged. No further fee is due with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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KLA TENCOR
P.O. BOX 70250
OAKLAND CA 94612

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OFFICE OF PETITIONS

In re Application of	:
Mark Ghinovker	:
Application No. 11/227764	: DECISION ON PETITIONS
Filed: 09/14/2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. KLA1P149/P1563	:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on September 30, 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2823 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/227,764	09/14/2005	2823	1300	KLA1P149/P1563	22	4

CONFIRMATION NO. 8734

CORRECTED FILING RECEIPT

61736
WEAVER AUSTIN VILLENEUVE SAMPSON LLP - KLA TENCOR
KLA TENCOR
P.O. BOX 70250
OAKLAND, CA 94612

OC000000033007594

Date Mailed: 11/14/2008

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)

Mark Ghinovker, Migdal Ha'Emek, ISRAEL;

Assignment For Published Patent Application

KLA-Tencor Technologies Corporation

Power of Attorney: The patent practitioners associated with Customer Number 022434

Domestic Priority data as claimed by applicant

This application is a CIP of 09/894,987 06/27/2001 PAT 7,068,833
which claims benefit of 60/229,256 08/30/2000
This application 11/227,764
is a CIP of 10/729,838 12/05/2003 PAT 7,317,531
which claims benefit of 60/431,314 12/05/2002
and claims benefit of 60/440,970 01/17/2003
and claims benefit of 60/504,093 09/19/2003
and claims benefit of 60/449,496 02/22/2003
and claims benefit of 60/498,524 08/27/2003

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/227,764**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for determining overlay of structures having rotational or mirror symmetry

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEAVER AUSTIN VILLENEUVE SAMPSON LLP - KLA TENCOR
KLA TENCOR
P.O. BOX 70250
OAKLAND CA 94612

COPY MAILED
JAN 21 2009

In re Application of	:
Mark Ghinovker	: SUPPLEMENTAL
Application No. 11/227764	: DECISION ON PETITIONS
Filed: 09/14/2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. KLA1P149/P1563	:

This is a supplemental decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on September 30, 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2823 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/227,764	09/14/2005	2823	1300	KLA1P149/P1563	22	4

CONFIRMATION NO. 8734

CORRECTED FILING RECEIPT

61736
WEAVER AUSTIN VILLENEUVE SAMPSON LLP - KLA TENCOR
KLA TENCOR
P.O. BOX 70250
OAKLAND, CA 94612

OC000000033984942

Date Mailed: 01/21/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Mark Ghinovker, Migdal Ha'Emek, ISRAEL;

Assignment For Published Patent Application

KLA-Tencor Technologies Corporation

Power of Attorney: The patent practitioners associated with Customer Number 022434

Domestic Priority data as claimed by applicant

This application is a CIP of 09/894,987 06/27/2001 PAT 7,068,833
which claims benefit of 60/229,256 08/30/2000
This application 11/227,764
is a CIP of 10/729,838 12/05/2003 PAT 7,317,531
which claims benefit of 60/431,314 12/05/2002
and claims benefit of 60/440,970 01/17/2003
and claims benefit of 60/504,093 09/19/2003
and claims benefit of 60/449,496 02/22/2003
and claims benefit of 60/498,524 08/27/2003
This application 11/227,764
claims benefit of 60/698,535 07/11/2005

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/227,764**

Projected Publication Date: 02/26/2009

Non-Publication Request: No

Early Publication Request: No
Title

APPARATUS AND METHODS FOR DETERMINING OVERLAY OF STRUCTURES HAVING ROTATIONAL OR MIRROR SYMMETRY

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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APR 15 2010

OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Patent No. 7,599,727	:	DECISION ON REQUEST FOR
TEICHMAN et al.	:	RECONSIDERATION OF
Issue Date: October 6, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/227,767	:	AND
Filed: September 15, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. S63.2-14395-US01	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 25, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred eighty-eight (988) 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 eighty-eight (988) days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred eighty-eight (988) 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 : 7,599,727 B2

DATED : Oct. 6, 2009 **DRAFT**

INVENTOR(S) : TEICHMAN 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 541 days

Delete the phrase "by 541 days" and insert – by 988 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DANIEL L. DAWES
MYERS DAVES ANDRAS & SHERMAN, LLP
SUITE 1150, 19900 MACARTHUR BOULEVARD
IRVINE, CA 92612

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SEP 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Andre NACUL, et al	:	
Application No. 11/227,781	:	DECISION ON PETITION
Filed: September 14, 2005	:	TO WITHDRAW
Attorney Docket No. UC1-PAU.57		FROM RECORD
	:	

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, 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 the attorneys of record 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 the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

227TED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JAN 19 2010

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP (018563)
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Loc X. PHAN et al.	:	
Application No. 11/227,810	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. **018563-001340US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2009 above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 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 March 20, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance. See attached courtesy copy of examiner's advisory action.

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.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/227,810	Applicant(s) PHAN ET AL.	
	Examiner HEIDI M. EIDE	Art Unit 3732	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-15*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Heidi M Eide/
Examiner, Art Unit 3732

Continuation of 3. NOTE: the new limitation of the same appliance would require an updated search and further consideration.

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TOWNSEND AND TOWNSEND AND CREW, LLP (018563)
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
APR 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Loc X. PHAN et al.	:	
Application No. 11/227,810	:	DECISION ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. **018563-001340US**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 19, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The petition fee of $1620 included with the instant petition is unnecessary, as this is a renewed petition. As authorized, the fee is being refunded to Deposit Account 20-1430.

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 Tredelle Jackson at (571) 272-2783.

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL A. O'NEIL
MICHAEL A. O'NEIL, P.C.
SUITE 820
5949 SHERRY LANE
DALLAS, TX 75225

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of
Thomas J. Laughlin
Application No. 11/227,821
Filed: September 15, 2005
Attorney Docket No. 117645-1047

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 23, 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 the petitioner was 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS J. LAUGHLIN
3506 BLUEBERRY LANE
GRAPEVINE, TX 76051

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SUITE 600
SALT LAKE CITY UT 84111

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of
Joan Wills, et al.
Application No. 11/227,824
Filed: September 15, 2005
Attorney Docket No. 8-02-12829

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 25, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 2, 2006. A Notice of Abandonment was mailed on January 8, 2007. On January 25, 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 $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Publishing Division to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

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.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Natsuki Kobayashi, et al. :
Application No.: 11/227,829 : ON PETITION
Filed: September 15, 2005 :
Attorney Docket No.: UNIU79.059AUS :

This is a decision on the petition, filed March 19, 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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1794 for further processing of the request for continued examination under 37 CFR 1.114 filed March 15, 2010 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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ROGER PITT
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK NY 10022-6030

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Michonski	:	
Application No. 11/227,852	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. 0809125.0103	:	FROM RECORD
	:	

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 4, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "this request is the attached copy of written instructions from an agent of the assignee", 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).

The request to withdraw less than all attorneys appointed by customer number 00545 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 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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: TOMOYUKI NONAKA
Application No.: 11/227,860
Filed: September 14, 2005

For: **DIGITAL INFORMATION RECORDING AND REPRODUCING METHOD AND APPARATUS THEREFOR**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed December 19, 2008, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of the latest office actions (other than "Decision to Grant a Patent") from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ricky Ngo 571-272-3139.

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.

/Ricky Ngo/

Ricky Ngo
Supervisory Patent Examiner, Technology Center 2400
571-272-3139

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REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Berman, et al.	:	
Application No. 11/227,865	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. 356508.05400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 14, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Doyle Johnson on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
5635 SNOWDON PLACE
SAN JOSE, CA 95138

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/227,865	09/15/2005	Arthur Berman	356508.05400

CONFIRMATION NO. 8317

OC000000020726496

OC000000020726496

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO, IL 60606

In re Application of	:	
Michael J. Blankstein	:	
Application No. 11/227,869	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No.: 4709-00099USC1	:	

This is a decision on the petition under 37 CFR 1.182, filed November 14, 2005, requesting that the above-identified application retain the presently accorded filing date with page 34 of the specification as part of the original disclosure.

The petition is **dismissed**.

On September 15, 2005, the above-identified application was filed. However, on October 21, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application stating that application had been accorded a filing date of September 15, 2005, and advising applicant that page 34 appeared to have been omitted.

In response, on November 14, 2005, applicant filed the present petition. A Office date-stamped postcard whereby the Office acknowledged receipt of the Specification/Claim/Abstract—Copy from Parent, among other items accompanied the petition. Petitioner contends that this postcard evidences the Office's receipt of page 34 of the specification. Alternatively, petitioner maintains that the above-cited application incorporated by reference the entirety of a prior application, which contained page 34, therefore, the instant application was complete on filing.

The postcard filed with the petition is deficient. Further to this point, Section 503 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete

> application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The postcard filed does not provide the number of pages of the specification. As explained above, the postcard cannot, therefore, serve as *prima facie* evidence of the Office's receipt of page 34 of the specification.

As to petitioner's argument that the application is complete by virtue of the incorporation by reference statement, it is noted that the Notice to File Omitted Items of Nonprovisional Application permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the Office with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such omitted items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

An applicant may incorporate by reference the prior application by including in the application-as-filed, a statement that such specifically enumerated prior application or applications are hereby incorporated by reference. The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), <u>without the need for a petition.</u> <u>See</u> MPEP 201.06(c).

In view of the incorporation by reference of the prior application, page 34 of the specification is not new matter if it was part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2005, using only the application papers present on filing. A preliminary amendment should be filed prior to the first action on the merits requesting entry of page 34 of the specification.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RENE A VAZQUEZ
PO BOX 9744
MCLEAN VA 22102

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Koo, et al.	:	
Application No. 11/227,909	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. GCTS-0061	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 4, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file pay the issue fee in response to the Notice of Allowance mailed December 3, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on March 4, 2008.

Petitioner has paid the petition, issue, and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/227,921	09/15/2005	Roy L. Hobbie	CH-8366US/P0030001

LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH PA 15275-1112

DATE MAILED: July 19, 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 July 13, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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PERKINS COIE LLP (BOEING)
P.O. BOX 1247
PATENT - SEA
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Lawrence E. Fink	: DECISION ON REQUEST FOR
Patent Number	: 7611550	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,930	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HUDAK, SHUNK & FARINE, CO., L.P.A.
2020 FRONT STREET, SUITE 307
CUYAHOGA FALLS, OH 44221

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OFFICE OF PETITIONS

In re Application of	:	
GALLEGO, et al.	:	
Application No. 11/227,932	:	DECISION GRANTING PETITION
Filed: September 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FMW-CH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 29, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 2008 *cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of	:	
Rodney J. West	:	
Application No. 11/227,940	:	DECISION GRANTING PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. OXF-0042	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee;(2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of December 28, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Laurance N. Hazlehurst	: DECISION ON REQUEST FOR
Patent Number	: 7574933	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,941	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1049** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK NY 10019

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MAR 26 2010

OFFICE OF PETITIONS

In re Application of :
Choi et al. :
Application No. 11/227,963 :
Filed: September 14, 2005 :
Attorney Docket No. V0195.0054 :
Title: MEDIUM ACCESS CONTROL :
UNIT :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. 1.705(b) OF PATENT TERM ADJUSTMENT" filed January 25, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand two hundred seventy-three (1,273) days, not nine hundred thirteen (913) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the

actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Gary A. Freeman	: DECISION ON REQUEST FOR
Patent Number	: 7650181	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1070** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Patent No. 7,488,341
Issued: February 10, 2009
Application No. 11/227,969
Filed: September 14, 2005
Attorney Docket No. 00633-0075001 / MEEI 05/062D

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed April 10, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred forty-three (443) days to five hundred ninety-two (592) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On April 10, 2009, the above-identified application matured into US Patent No. 7,488,341 with a patent term adjustment of 443 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 592 days, which includes 149 days of patent term adjustment due to exceeding three year pendency and 443 days due to USPTO delay in prosecution.

The 149-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on September 14, 2005, and the patent having been issued on February 10, 2009, three years and 149 days later. Patentees assert that in addition to this 149-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 443 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 (149 days) and the period of Examination Delay (443 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 592 days, which is the sum of the period of Three Year Delay (149 days) and the period of Examination Delay (443 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 592 days (443 + 149 reduced by 0 overlap – 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on February 10, 2009, the application was pending three years and 149 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 443 days is correct. At issue is whether patentees should accrue 149 days of patent term adjustment for the Office taking in excess of three years to Issue the patent, as well as 443 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 149 days of delay in issuance of the patent overlaps with the period of 443 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, September 14, 2005, to the date the patent issued on February 10, 2009. Prior to the issuance of the patent, 443 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 149 days for Office delay in issuing the patent overlap with the 443 days of Office delay. During that time, the issuance of the patent was delayed by 443 days, not 443 + 149 days. The Office took 14 months and 443 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 443 days of examination 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 149 days. The Office did not delay 443 days

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

and also delay an additional 149 days. Accordingly, 443 days of patent term adjustment (not 443 days and 149 days) was properly entered since the period of delay of 149 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 443 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Alesia Brown
Senior Petitions Attorney
Office of Petitions

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MAR 16 2010

In re Patent No. 7,488,341	: DECISION ON REQUEST
Issued: February 10, 2009	: FOR RECONSIDERATION
Application No. 11/227,969	: OF PATENT TERM ADJUSTMENT
Filed: September 14, 2005	: AND
Attorney Docket No. 00633-0075001 /	: NOTICE OF INTENT TO ISSUE
MEEI 05/062D	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION filed on November 30, 2009, requesting that the patent term adjustment be corrected from 443 to 592 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by five hundred ninety-two (592) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred ninety-two (592)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,488,341 B2

DATED : February 10, 2009

INVENTOR(S) : Daniel M. Merfeld

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 (443) days

Delete the phrase "by 443 days" and insert – by 592 days--

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Hamilton et al.	:	
Patent Number: 7,588,583	:	DECISION ON REQUEST
Issue Date: 09/15/2009	:	FOR RECONSIDERATION OF
Application No. 11/227981	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/14/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
025945-000100US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 28, 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 eighty-eight (888) 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 eighty-eight (888) 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 eighty-eight (888) days**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony J. St for

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,583 B2

DATED : **September 15, 2009**

INVENTOR(S) : Hamilton 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 888 days--

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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Henry Hamilton	: DECISION ON REQUEST FOR
Patent Number	: 7588583	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/227,981	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,282,777 B1

APPLICATION NO.: 11/227,989

ISSUE DATE : October 16, 2007

INVENTOR(S) : Shun Lien Chuang, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On title page, item 73 Assignee,
replace "California Institute of Technology"
with "The Board of Trustess of the University of Illinois and California Institute of Technology"

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Samuel J. Petuchwski
Bromberg & sunstein LLP
125 Summer Street
Boston, MA 02110

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

8/15/08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. :7,282,777
Ser. No. : 11/227,989
Inventor(s) : Shun Lien Chuang, et. al.
Issued : October 16, 2007
Title : INTERBAND CASCADE DETECTORS
Docket No. : 2895/111

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.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Samuel J. Petuchwski
Bromberg & Sunstein LLP
125 summer Street
Boston, MA 02110

ej

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

BROMBERG & SUNSTEIN, LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

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NOV 06 2008
OFFICE OF PETITIONS

In re Patent No. 7,282,777	:	
Issue Date: October 16, 2007	:	
Application No. 11/227,989	:	ON PETITION
Filed: September 15, 2005	:	
Patentee(s): Shun Lien Chuang, et. al.	:	

This is a decision on the request under 37 CFR 3.81[1] filed September 2, 2008, to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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

ROBERT W. STROZIER, P.L.L.C
P.O. BOX 429
BELLAIRE, TX 77402-0429

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Ronald Bormaster :
Application No. 11/227,990 : ON PETITION
Filed: September 15, 2005 :
Attorney Docket No. 0273.101.US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (2).

The Office acknowledges receipt of a credit card authorization for $1,015 submitted on November 7, 2007. The fees were to be applied as follows: $180 for the submission of an Information Disclosure Statement (IDS), $65 for the terminal disclaimer under 37 CFR 1.321 and $770 for treatment of the instant petition. However, for some unknown reason, the Office applied $750 towards the petition fee and refunded $20 back to petitioner's credit card. Therefore, petitioner must submit the $20 that was refunded before revival of this application can occur.

The Office apologizes for any inconvenience caused to petitioner.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EPSTEIN & GERKEN
1901 RESEARCH BOULEVARD
SUITE 340
ROCKVILLE, MD 20850

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JUL 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronald Bormaster	:	
Application No. 11/227,990	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. 0273.101.US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on April 10, 2008, to revive the above-identified application.

A review of the record shows that the petition filed on November 7, 2007 was dismissed on March 17, 2008. In response to the decision, petitioner filed a renewed petition and the $20 fee deficiency on April 10, 2008[1]. On May 27, 2008, petitioner filed a request to withdraw the renewed petition filed April 10, 2008.

In view of the above, the petition under 37 CFR 1.37(b) is **dismissed as moot** and the above application will remain abandoned.

The Revocation of Power of Attorney and New Power of Attorney and Change of Correspondence Address filed on November 7, 2007 has been accepted. A Notification of Acceptance is enclosed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notification of Acceptance of Power of Attorney

[1] The $20 fee is required to complete the petition fee for the petition filed on November 7, 2007.

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
11/227,990	09/15/2005	Ronald Bormaster	99022/01C2

CONFIRMATION NO. 6799

36139
EPSTEIN & GERKEN
1901 RESEARCH BOULEVARD
SUITE 340
ROCKVILLE, MD 20850

POA ACCEPTANCE LETTER

OC000000030808957

Date Mailed: 07/03/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2007.

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.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Alexander I. Kalina	:	
Application No. 11/227,991	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 02019/14UTL	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 8, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 does not include a statement signed by the 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 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 undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3748 for action in its regular turn.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Alexander I. Kalina	:	
Application No. 11/227,991	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 02019/14/UTL	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 24, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's drivers license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3748 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WARE FRESSOLA VAN DER
SLUYS & ADOLPHSON
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P.O. BOX 224
MONROE, CT 06468

COPY MAILED

MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Paul J. Plishner	:	DECISION ON PETITION
Application No. 11/227,993	:	TO MAKE SPECIAL UNDER
Filed: September 14, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. 2-603.16	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 14, 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 petition includes a declaration by Paul J. Plishner attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3663 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/227,993	09/14/2005	Paul J. Plishner	2-603.16	8484

4955 7590 05/21/2008
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER
MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
05/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

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FROM DIRECTORS OFFICE

MAY 20 2008

TECHNOLOGY CENTER 3600

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON, LLP
755 Main Street
P.O. Box 224
Monroe, CT 06468-0224

In re Application of :
Paul J. Plishner :
Application No. 11/227,993 :
Filed: September 14, 2005 :
For: SEMI-AUTONOMOUS GUIDANCE SYSTEM FOR A VEHICLE

DECISION ON THE PETITION UNDER 37 CFR 1.144

This is a decision on applicant's petition on the propriety of the restriction/election under 37 CFR 1.144, filed in the United States Patent and Trademark Office, on May 4, 2007. The delay in treating this petition is sincerely regretted.

The petition is **DENIED**.

BACKGROUND

A thorough review of the file reveals that a restriction under MPEP § 806.05(e) – Process and Apparatus for its Practice - was mailed to applicant on June 15, 2006.

I. Claims 1-7, drawn to an apparatus, classified in class 701, subclass 96 and 207.
II. Claims 8-14, drawn to a process, classified in class 340, subclass 902, 447 and 928; class 342, subclass 70, 71 and 701.

The June 15th restriction requirement was withdrawn in response to applicant's traversal. It was noted that the group I and II claims were linked.

A new election requirement was presented to applicant September 25, 2006.

Species election:
A. Embodiment of figures 1 and 2, or
B. Embodiment of figure 3.

Applicant on October 10, 2006 elected with traverse to prosecute species A (embodiment of figures 1 and 2). Applicant within his comments argued the Examiner asserts that restriction is proper "because of the patentably distinct embodiments cited by the applicant in their disclosure." Applicant respectfully submits that the restriction requirement should be withdrawn because all of the claims (as amended here) that read

on the elected embodiment also read on the embodiment of figure 3, and thus all the claims that read on the elected embodiment are generic.

The non-Final Office action of December 18, 2006 addressed applicant's traversal of the election and withdrew non-elected claims as being drawn top non-elected species with traverse. In replying to the traversal of the restriction/election requirement the examiner stated:

> The Applicant's election with traverse of species of figs. 1 and 2 in the reply filed on 10/10/06 is acknowledged. The traversal is on the ground(s) that all the claims read on the elected embodiments. This is not found persuasive because claims 7, 14 read on fig. 3 and claims 1-6, 8-12 read on figs. 1 and 2. Applicant admits that at least claim 7 reads only on fig.3. Fig.3 has two transmitters while figs. 1 and 2 have one transmitter.
>
> The requirement is still deemed proper and is therefore made FINAL.

PETITION

Applicant's petition states the following: (1) that by virtue of the dependencies of the non-elected claims, the supposedly two different inventions are of *exactly* the same design, operation, and effect. Thus, the two inventions are *not independent* and thus they cannot be asserted that they are *distinct,* and (2) the species requirement is improper under MPEP § 808.02, as the examiner did not establish a burden by setting forth one or more of three reasons: a separate classification, a separate status in the art, and a different field of search.

DISCUSSION

> MPEP § 806.04 Genus and/or Species Inventions
>
> **>Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct. However, 37 CFR 1.141 provides that an allowable generic claim may link a reasonable number of species embraced thereby. The practice is set forth in 37 CFR 1.146.
>
> 37 CFR 1.146. Election of species.
> In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.
>
> MPEP § 806.04(e) Claims Limited to Species
>
> Claims are definitions >or descriptions< of inventions. Claims >themselves< are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim)*>. Alternatively,< a claim may *>encompass< two or more of the disclosed embodiments** (and thus be designated a generic or genus claim).

Species * always >refer to< the * different embodiments >of the invention<. Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

Regarding statement (1) this argument is not found to be persuasive. Applicant argues that the species are not (a) independent and (b) distinct. With regard to applicant's assertion it is noted that claims are never species, embodiments (e.g., figures) are species. See MPEP§ 806, 806.04 and 806.04(b), (e)-(h). Applicant within the disclosure sets forth the distinctness of the embodiments (see specification pages 4-7 and figures 1-3).

Applicant's argument that all species read on the elected embodiment is correct. Claim 1 is generic to all species. Upon allowance of the elected embodiment the non-elected species are rejoined.

With regard to statement (2) this argument is not found to be persuasive. The examiner set forth his position in response to applicant's traversal of the election requirement by setting forth the mutually exclusive characteristics (i.e., number of transmitters) of the embodiments. The examiner established burden by citing the mutually exclusive characteristic that necessitates a different field of search and/or separate status in the art.

Note: Had applicant expressly admitted that the claimed inventions are not patentably distinct or are obvious variants over each other within the meaning of 35 USC 103 the election requirement would have been negated/withdrawn. See *In re Lee*, 199 USPQ 108 (Comm'r Pat 1978).

The species election requirement between embodiments A and B is deemed **proper** for the reasons set forth above.

SUMMARY: The petition is **DENIED**.

Note: Due to the failure to file a timely reply to the Final Office action of March 9, 2007, the application is in abandoned status.

Any questions or comments with respect to this decision should be forwarded to Jack W. Keith at (571) 272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/snm: 04/30/08

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Neal Valencia et al.	:	
Application No. 11/228,020	:	DECISION ON PETITION
Filed: September 14, 2005	:	PURSUANT TO
Attorney Docket No.: 7241-4	:	37 C.F.R. § 1.137(B)
Title: CATTLE MANAGEMENT	:	
SYSTEM AND METHOD	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 18, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 10, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 11, 2009.

A Notice of Abandonment was mailed on March 5, 2009, subsequent to the filing of this petition.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

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 issue, publication, 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.[3]

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.[4] All other inquiries

---

3 See Rule 1.137(d).
4 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.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND OR 97205-3335

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JUL 22 2008

OFFICE OF PETITIONS

In re Application of :
Takeshi Miyazaki, et al. :
Application No. 11/228,028 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No. ACO05319 :

This is a decision in response to the petition, filed March 25, 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 non-final Office action mailed August 22, 2007. On March 25, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 28, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on March 25, 2008 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 3616 for appropriate action by the Examiner in the normal course of business on the amendment received March 25, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/228,042	ZANNI ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				6	435	7.1							
INTERNATIONAL CLASSIFICATION					530	300	350						
C	1	2	Q	1/68	536	23.1							
G	0	1	N	33/53									
A	6	1	K	38/00									
C	0	7	K	1/00									
C	0	7	H	21/02									

(Assistant Examiner) (Date)	/Frank W Lu/ 3/26/2010	Total Claims Allowed: 32
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1	27	31		61		91		121		151		181
	~~2~~	28	32		62		92		122		152		182
	~~3~~	29	33		63		93		123		153		183
2	4	30	34		64		94		124		154		184
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26	30		60		90		120		150		180		210

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CHRISTOPHER C. WINSLADE
McANDREWS, HELD & MALLOY, LTD.
34th Floor
500 West Madison St.
Chicago, IL 60661

Mail Date: 05/10/2010

Applicant	: Fong Pong	: DECISION ON REQUEST FOR
Patent Number	: 7653070	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/228,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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EDWIN TARVER
16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Samir Gandhi	:	
Application No. 11/228,062	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. N01805-001	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(ii), filed February 24, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(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, unclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition is not signed, therefore, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2629 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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SUITE 360
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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of
Samir Gandhi
Application No. 11/228,062
Filed: September 16, 2005
Attorney Docket No. N01805-001

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(ii), filed April 26, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to meet the materiality standard of 37 CFR 102 (c)(2)(ii). Although the invention may be directed to the development of a lighting system employing LED bulbs, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to the conservation of energy resources. That the invention includes a light emitting diode in itself does not meet the materiality standard, as light emitting diodes are a known source of light. Therefore, the issue is not whether light emitting diodes in general are more energy efficient but rather, how petitioner's invention would contribute in a significant manner to the conservation of energy resources. Accordingly, it is unclear as to how the claimed invention would contribute in a significant manner to the development or conservation of energy resources.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents

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Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon 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 2629 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,561,446	:
Issued: July 14, 2009	: DECISION ON REQUEST
Application No. 11/228,068	: FOR RECONSIDERATION OF
Filed: September 15, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. 00614-150001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed September 14, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred seventy-two (272) days to five hundred seventy-four (574) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On July 14, 2009, the above-identified application matured into US Patent No. 7,561,446 with a patent term adjustment of 272 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 574 days, which includes 302 days due to exceeding three year pendency.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (302 days) and the period of Examination Delay (434 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. As such, patentees assert entitlement to a patent term adjustment of 574 days (434 + 302 reduced by 0 overlap – 162 (applicant delay)).

The Office contends that all 302 days for over three year pendency overlap with the 434 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for over three year 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).

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.

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, September 15, 2005, to the date the patent issued on July 14, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 434 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 302 days for Office delay in issuing the patent overlap with the 434 days of Office delay. During that time, the issuance of the patent was delayed by 434 days, not 434 + 302 days. The Office experienced 434 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 434 days of Office delay and the time allowed within the time frames for processing and examination, the application was pending three years and 198 days. The Office did not delay 276 days and then an additional 302 days. Accordingly, 434 days of patent term adjustment (not 434 and 302 days) was properly entered. The period of delay of 302 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 434days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 434 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 302 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term

adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 7,561,446
Issued: July 14, 2009
Application No. 11/228,068
Filed: September 15, 2005
Attorney Docket No. 00614-0150001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on January 25, 2010, requesting that the patent term adjustment be corrected from 272 to 574 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by five hundred seventy-four (574) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred seventy-four (574)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,561,446 B1

DATED : July 14, 2009

INVENTOR(S) : Vinciarelli

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 (272) days

Delete the phrase "by 272 days" and insert – by 574 days--

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 17:08:47

PTA Calculations for Application: 11/228068			
Application Filing Date:	09/15/2005	PTO Delay (PTO):	434
Issue Date of Patent:	07/14/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	162
Post-Issue Petitions:	0	Total PTA (days):	574
PTO Delay Adjustment:	302		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	302		
72.5	06/24/2009	PTA 36 MONTHS			
72	07/14/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
71	06/10/2009	EXPORT TO FINAL DATA CAPTURE			
70	06/09/2009	DISPATCH TO FDC			
69	06/09/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
68	06/08/2009	ISSUE FEE PAYMENT VERIFIED			
67	06/08/2009	ISSUE FEE PAYMENT RECEIVED			
66	04/30/2009	FINISHED INITIAL DATA CAPTURE			
65	04/27/2009	RESPONSE TO REASONS FOR ALLOWANCE			
64	04/27/2009	EMAIL NOTIFICATION			
63	04/24/2009	WORKFLOW - QUERY REQUEST - FINISH			
62	04/24/2009	WORKFLOW - QUERY REQUEST - FINISH			
61	04/27/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
59	04/20/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
58	04/03/2009	PUBS CASE REMAND TO TC			
57	04/06/2009	WORKFLOW - QUERY REQUEST - BEGIN			
56	03/27/2009	EXPORT TO INITIAL DATA CAPTURE			
53	03/25/2009	MAIL NOTICE OF ALLOWANCE			
52	03/12/2009	ISSUE REVISION COMPLETED			
51	03/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	03/12/2009	CASE DOCKETED TO EXAMINER IN GAU			

49	03/10/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
48	03/10/2009	DOCUMENT VERIFICATION			
47	03/02/2009	NOTICE OF ALLOWABILITY			
46	02/25/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
45	11/25/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	12/24/2008	DATE FORWARDED TO EXAMINER			
43	11/25/2008	RESPONSE AFTER NON-FINAL ACTION		61	38
42	11/25/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	11/25/2008	REFERENCE CAPTURE ON IDS			
40	11/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	11/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	06/25/2008	MAIL NON-FINAL REJECTION	6		22
37	06/19/2008	NON-FINAL REJECTION			
36	05/30/2008	REFERENCE CAPTURE ON IDS			
35	05/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		101	22
34	05/21/2008	REFERENCE CAPTURE ON IDS			
33	05/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/21/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	05/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	05/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/31/2008	DATE FORWARDED TO EXAMINER			
22	02/19/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
21	01/17/2008	MAIL RESTRICTION REQUIREMENT	428		-1
20	01/16/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
17	02/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	04/21/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	04/21/2006	CASE DOCKETED TO EXAMINER IN GAU			

14	01/31/2006	CORRESPONDENCE ADDRESS CHANGE			
13	12/12/2005	PRELIMINARY AMENDMENT			
12	12/12/2005	NEW OR ADDITIONAL DRAWING FILED			
11	12/09/2005	APPLICATION DISPATCHED FROM OIPE			
10	12/09/2005	APPLICATION IS NOW COMPLETE			
9	12/05/2005	ADDITIONAL APPLICATION FILING FEES			
8	12/05/2005	SMALL ENTITY STATEMENT (37 CFR 1.27)			
7	12/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	10/04/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	09/15/2005	PGPUBS NONPUB REQUEST			
3	09/28/2005	CLEARED BY OIPE CSR			
2	09/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/15/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 2, 2007

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No. 11/228079patent no. 7115405

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER

Kathleen Kerr Bragdon — SPE

1656 — Art Unit

PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,115,405 B2

APPLICATION NO.: 11/228,079

ISSUE DATE : 10/03/2006

INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KKB 8/14/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 3, line 59: Delete "hasA and hasB" and replace with --*has*A and *has*B--

Column 4, line 16: After the word "mammals" delete "(29-34),"

Column 4, line 38: Delete "Subcdones" and replace with --Subclones--

Column 5, line 5-6: Delete "modulation" and replace with --nodulation--

Column 5, line 55: Delete "Mammalian" and replace with --mammalian--

Column 5, line 63: Delete "XIHAS" and replace with -- xlHAS--

Column 6, line 63: After the word "genes:" insert -- (1)--

Column 7, line 44: Delete "molecularweight" and replace with --molecular weight--

Column 10, line 43: Delete "3-8" and replace with --3-6--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Kathryn L. Hester, Reg. # 46,768
Dunlap Codding & Rogers, P.C.
P. O. Box 16370
Oklahoma City, OK 73113

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.**

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1 7 2007

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APPLICATION NO.: 11/228,079

ISSUE DATE : 10/03/2006

INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KKB 8/10/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 12, line 56: Delete "posftranslational" and replace with -- post-translational--

Column 13, line 28: Delete "(AFT)" and replace with --(A/T)--

Column 13, line 30: Delete "(AFT)" and replace with --(A/T)--

Column 13, line 67: Delete "lie" and replace with --Ile --

Column 14, line 1: Delete "Gin" and replace with -- Gln --

Column 14, line 3: Delete "Anoles" and replace with --Angles --

Column 15, line 56: Delete "adenovimus" and replace with --adenovirus --

Column 17, line 64: After the word "systems:" delete "(a)" and replace with --(1)--

Column 17, line 65: Delete "(SEQ ID NO: 9)" and replace with --(SEQ ID NOS: 8 & 9) --

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PATENT NO. : 7,115,405 B2

APPLICATION NO.: 11/228,079

ISSUE DATE : 10/03/2006

INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KKB 8/16/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 17, line 66: Delete "(SEQ ID NOS: 7 and 8)" and replace with --(SEQ ID NOS: 7 and 10)--

Column 19, line 12: After the word "mined" insert the following:

--utilizing Hanes-Woolf plots ([S]/*v versus* [S]) of the titration data. The V_{max} values for both sugars were the same because the slopes, corresponding to $1/V_{max}$, of the Hanes-Woolf plots were equivalent. In comparison to results from assays with Mg^{2+}, the K_M value for UDP-GlcNAc was increased by about 25-50% to ~105 μM and the V_{max} increased by a factor of 2-3-fold in the presence of Mn^{2+}.

The HA synthase enzymes from either *P. multocida*, *S. equisimilis*, or *S. pyogenes* utilizes UDP-sugars, but they possess somewhat different kinetic optima with respect to pH and metal ion dependence and K_M values. The enzymes are most active at pH 7; however, the pmHAS reportedly displays more activity at slightly acidic pH and is relatively inactive above pH 7.4. The pmHAS utilizes Mn^{2+} more efficiently than Mg^{2+} under the *in vitro* assay conditions, but the identity of the physiological metal cofactor in the bacterial cell is unknown. In comparison, in previous studies with the streptococcal enzyme, Mg^{2+} was much better than Mn^{2+} but the albeit smaller effect of Mn^{2+} was maximal at ~10-fold lower concentrations than the optimal Mg^{2+} concentration. The pmHAS apparently binds the UDP-sugars more tightly than spHAS. The measured K_M values for --

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PATENT NO. : 7,115,405 B2

APPLICATION NO.: 11/228,079

ISSUE DATE : 10/03/2006

INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

KKB OK to enter 8/10/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 19, line 52: Delete "SEQ ID NOS: 7 and 8" and replace with
-- SEQ ID NOS: 7 and 10 --

Column 20, line 19: Delete "xIHAS" and replace with --xlHAS --

Column 20, line 36: Delete "produce" and replace with --product --

Column 21, line 6: Delete "murine HAS1, HAS2, HAS3," and replace with
-- PBCV-1 HAS, human HAS,--

Column 21, lines 9-18: Delete "Residues in seHAS identical in other known HAS family members (including human HAS1 and 2, not shown) are denoted by shading and asterisks. The amino acids indicated by dots are conserved in all members of the larger β-glycosyl transferase family. The diamond symbol indicates the highly conserved cysteine residue that may be critical for enzyme activity. The approximate mid-points of predicted membrane domains MD1 through MD7 are indicated with arrows. X1 indicates *Xeopus laevis*, and MM denotes *Mus musculis*." and replace with -- Xl indicates *Xeopus laevis*.--

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APPLICATION NO.: 11/228,079

ISSUE DATE : 10/03/2006

INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KFB 8/16/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 23, line 26: After the word "acid" delete word "made" and replace with -- may --

Column 26, line 26: Delete "cytomegalovimus" and replace with -- cytomegalovirus --

Column 27, line 13: Delete "molecular dynamics personal densitometer" and replace with -- Molecular Dynamics Personal Densitometer --

Column 27, line 18: Delete "Bio-rad" and replace with -- Bio-Rad --

Column 28, line 2: Delete "quatemary" and replace with -- quaternary --

Column 29, line 25: After the word "Gram-postive" insert a -- period --

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ISSUE DATE : 10/03/2006

INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KKB 8/16/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 30, line 54: Delete "Bg1 /" and replace with -- *Bgl I* --

Column 31, line 2: Delete "pl" and replace with -- pI --

Column 31, line 10: After "lanes 2," insert -- 5, --

Column 31, line 43: Delete "(O,□,_) " and replace with -- (O,□,Δ)--

Column 31, line 44: Delete "(_,▲) " and replace with -- (Δ,▲)--

Column 32, line 6: After the word "HAS" delete "; 19"
line 7: After the word "factor" delete "; 20"
line 7: Delete "modulation" and replace with
-- nodulation --

Column 33, line 8: Delete "A" and replace with --λ--.

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INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KKB 8/16/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 34, line 62: After the word "tested." delete "p"

Column 34, line 62-67 and Column 35, lines 1-17: Begin a new paragraph with "The ORF of the reconstructed gene encodes .... muHAS2 and muHAS3 are 71% identical)."

Column 35, line 3: Delete ", FIG. 2"
(MuHASs are not in FIG. 2 sequence alignment)

Column 38, line 56: Delete "subcdoned" and replace with -- subcloned -- .

Column 35, line 7: Delete "PBCY-1" and replace with -- PBCV-1 --

Column 35, line 59: Delete "prepare" and replace with -- prepared --

Column 36, line 9: Delete "[^{14}c] " and replace with --[^{14}C] --

Column 38, line 5: Delete "seHAs" and replace with -- seHAS --

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INVENTOR(S) : Paul H. Weigel, Kshama Kumari, Paul DeAngelis

OK to enter KKB 8/16/07

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 38, lines 44-45: Delete "in the corresponding regions of SEQ ID NO. 1. These regions are in bold face and marked, respectively"

Column 39, line 15: Delete "BioSafell" and replace with -- BioSafe II --

Column 45, <213> of SEQ ID NO: 8: Delete "Pastuerella" and replace with -- Pasteurella --

Column 47, <213> of SEQ ID NO: 9: Delete "Pastuerella" and replace with -- Pasteurella --

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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Mail Date: 04/21/2010

Applicant	: Kathleen M. La Belle	: DECISION ON REQUEST FOR
Patent Number	: 7578019	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,101	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **836** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Helio Marcos Ribeiro	: DECISION ON REQUEST FOR
Patent Number	: 7662154	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,117	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Patent No. 7,237,446
Application No. 11/228,121
Filing Date: September 16, 2005
Issue Date: July 3, 2007
Attorney Docket No. I003.001NPRUS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 27, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,237,446 on July 3, 2007. Petitioner contends, however, that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was not received[1]. The Office of Data Management is directed to issue duplicate Letters of Patent.

The petition fee of $400.00 will be charged to deposit account 50-3695.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

[1] A petition fee is not normally charged when the petitioner is alleging that the Letters of Patent was never received. Petitioner must establish, however, that the Letters of Patent was never received by a statement that file records were searched and the Letter of Patent was not found and by the submission of the docket records to substantiate the alleged non-receipt. The statement is noted, however, the petition was not accompanied by relevant docket records. The petition fee of $400.00 will be charged accordingly.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Timothy J. Peters	:	
Application No. 11/228,131	:	DECISION ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 3572-143.1US	:	

This is a decision on the petition filed December 5, 2005, requesting that the above-identified application be accorded a filing date of September 16, 2005, with Figure 1a as part of the original disclosure.

On September 16, 2005, applicant filed the above-identified application. However, on October 20, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of September 16, 2005, and advising applicant that Figure 1a described in the specification and an oath or declaration appeared to have been omitted.

In response, December 5, 2005, applicant filed the present petition, a drawing of Figure 1a, and the petition fee. In the present petition, applicant requests that the application be accorded a filing date of September 16, 2005, with Figure 1a as part of the original disclosure. Applicant states that the above-identified application is a continuation-in-part of application No. 10/922,590, which contains Figure 1a and is related to embodiments of the invention previously disclosed and incorporated in the present application. Applicant avers that because Figure 1a was previously submitted in the parent application, described in both applications, and incorporated by reference, no new matter is introduced and simply corrects an error wherein one drawing sheet appears to have been lost or omitted.

As applicant admits, Figure 1a was not present on September 16, 2005; the date the application was filed. For this reason, the application cannot be accorded the filing date of September 16, 2005, with the drawing of Figure 1a as a part of the original disclosure. Accordingly, the petition is dismissed.

Figure 1a will not be entered at this time. However, the primary examiner will review applicant's preliminary amendment, requesting entry of Figure 1a.

This matter is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 16, 2005, using **only** the drawing sheets filed on that date. Figure 1a will **not** be entered at this time.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MCHALE & SLAVIN
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

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OFFICE OF PETITIONS

In re Application of	:	
Victor J. Cook Jr.	:	
Application No. 11/228,140	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2864U.001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 17, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes an affidavit by Victor J. Cook Jr. attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3635 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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LEIGH P. GREGORY
PO BOX 168
CLEMSON SC 29633-0168

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Foulger et al.	:	
Application No. 11/228,143	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. CLM-9-DIV	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 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 a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525.00 extension of time fee submitted with the petition on April 7, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1712 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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Kenyon & Kenyon
One Broadway
New York, New York 10004

In re Patent No. 7,567,779	:
Seligsohn et al.	: DECISION UPON REMAND AND
Issue Date: July 28, 2009	: RECONSIDERATION OF
Application No. 11/228,144	: PATENT TERM ADJUSTMENT
Filed: September 16, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 2648/602	: TO ISSUE CERTIFICATE OF
Title: Sub-Orbital, High	: CORRECTION
Altitude Communications System	:

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 four hundred and nine (409) 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 four hundred and nine (409) 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 : 7,567,779 B2

DATED : **July 28, 2009** **DRAFT**

INVENTOR(S) : Seligsohn 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 128 days

Delete the phrase "by 128 days" and insert – by 409 days--

Day : Tuesday
Date: 6/15/2010

PALM INTRANET

Time: 11:19:13

PTA Calculations for Application: 11/228144			
Application Filing Date:	09/16/2005	PTO Delay (PTO):	315
Issue Date of Patent:	07/28/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	187
Post-Issue Petitions:	0	Total PTA (days):	409
PTO Delay Adjustment:	281		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	06/15/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	281		
60.5	07/08/2009	PTA 36 MONTHS	34		
60	07/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
59	06/25/2009	EXPORT TO FINAL DATA CAPTURE			
58	06/24/2009	DISPATCH TO FDC			
57	06/24/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
56	06/23/2009	ISSUE FEE PAYMENT VERIFIED			
55	06/23/2009	ISSUE FEE PAYMENT RECEIVED			
54	06/03/2009	FINISHED INITIAL DATA CAPTURE			
53	06/01/2009	WORKFLOW - QUERY REQUEST - FINISH			
52	05/29/2009	TC RETURN TO PUBS			
51	05/15/2009	PUBS CASE REMAND TO TC			
50	05/20/2009	WORKFLOW - QUERY REQUEST - BEGIN			
49	04/07/2009	EXPORT TO INITIAL DATA CAPTURE			
48	04/03/2009	MAIL NOTICE OF ALLOWANCE			
47	03/31/2009	ISSUE REVISION COMPLETED			
46	03/31/2009	DOCUMENT VERIFICATION			
45	03/31/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	03/30/2009	NOTICE OF ALLOWABILITY			
43	12/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	02/02/2009	PARALEGAL TD ACCEPTED			
41	12/15/2008	REFERENCE CAPTURE ON IDS			
40	12/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS)		0	36

		FILED			
39	12/15/2008	TERMINAL DISCLAIMER FEE PAID			
38	12/15/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
37	01/30/2009	DATE FORWARDED TO EXAMINER			
36	12/15/2008	RESPONSE AFTER NON-FINAL ACTION		94	30
35	12/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	12/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	06/12/2008	MAIL NON-FINAL REJECTION			
29	06/09/2008	NON-FINAL REJECTION			
28	03/25/2008	DATE FORWARDED TO EXAMINER			
27	02/25/2008	RESPONSE AFTER NON-FINAL ACTION		93	25
26	02/25/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	08/24/2007	MAIL NON-FINAL REJECTION	281		-1
24	08/20/2007	NON-FINAL REJECTION			
23	09/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	08/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	11/21/2005	PRELIMINARY AMENDMENT			
20	09/16/2005	PRELIMINARY AMENDMENT			
19	11/21/2005	MISCELLANEOUS INCOMING LETTER			
18	09/16/2005	REFERENCE CAPTURE ON IDS			
17.7	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	07/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	12/01/2005	APPLICATION RETURN FROM OIPE			
14	12/02/2005	APPLICATION IS NOW COMPLETE			
13	12/01/2005	APPLICATION RETURN TO OIPE			
12	12/01/2005	APPLICATION DISPATCHED FROM OIPE			
11	12/01/2005	APPLICATION IS NOW COMPLETE			
10	11/21/2005	ADDITIONAL APPLICATION FILING FEES			
9	11/21/2005	OMMITED DRAWINGS. APPLICANT HAS PETITIONED THAT THE FILING DATE NOT BE CHANGED AND THE PETITION HAS			

8	10/13/2005	NOTICE OF OMITTED ITEMS			
5	10/03/2005	CLEARED BY L&R (LARS)			
4	10/03/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/03/2005	CASE CLASSIFIED BY OIPE			
2	09/26/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/16/2005	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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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Rong-Gui Hu	: DECISION ON REQUEST FOR
Patent Number	: 7575881	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,157	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 07/09/2010

Applicant	: Francois Edouard Tallet	: DECISION ON REQUEST FOR
Patent Number	: 7646733	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/228,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Mail Date: 04/20/2010

Applicant	: John F. Novak	: DECISION ON REQUEST FOR
Patent Number	: 7607860	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,173	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Dan Keith McCoin	:	
Application No. 11/228,183	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO MAKE SPECIAL
Attorney Docket No. 2310.102.DIV2	:	37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(ii), filed September 16, 2005, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition has been reviewed and is found in compliance with the requirements for special status as set forth in Section 708.02(V) of the MPEP. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

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 2834 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Zi-Tsan Chou	: DECISION ON REQUEST FOR
Patent Number	: 7586932	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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September 2006

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

OCT - 2 2006

In re Application of:	:	
BLAKE BOGDANOVICH	:	DECISION ON PETITION TO
Serial No.: 11/228,211	:	MAKE SPECIAL UNDER 37
Filed: 15 September 2005	:	C.F.R. § 1.102(d)
Docket: Bogbad.B-01	:	

This is a decision on the petition filed on September 15, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that the claims are directed to a single invention and an offer to elect without traverse should a restriction or election of species requirement is made; c) a statement that a pre-examination search was made, including the search areas; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of the teaching of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b), (c) and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them

from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the cited references, and states that they do not teach the specific limitations claimed in the independent claims. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For instance, petitioner has not discussed exactly how the Chauhan, Simjian, Pinkosh, Gwozdecki, Wheelan, Mosca, Tanaka et al, Ueda et al, Leuer, Seya et al, Aizawa et al and Kawamura references lack a disclosure or fair teaching of the limitations of each independent claim. A mere statement alleging that the claims contain a feature not found in the relevant prior art is insufficient. Petitioner is required to provide such detailed discussion for each reference with respect to each independent claim.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant, and a statement complying with MPEP § 708.02(VIII)(b).

Any inquiry regarding this decision should be directed to Jose' G. Dees, Special Program Examiner, at (571) 272-1569.

Jose' G. Dees, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

MAILED

MAY 25 2010

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Liang. :
Application No. 11/228,226 :
Filed: September 19, 2005 :
Attorney Docket No. BHT-3230-205 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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) 272-3215.

This application is being referred to Technology Center AU 2887 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW, SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
YU, et al.	:	
Application No. 11/228,230	:	DECISION ON PETITION
Filed: September 19, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 59210.000069	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 06, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the affidavit of Ruey Yu. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1617 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

In re Application of	:	
Tsung-Hsi Tsai	:	
Application No. 11/228,233	:	ON PETITION
Filed: September 19, 2005	:	
Attorney Docket No. BHT-3110-258	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2010 and supplemented on March 23, 2010, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,233	09/19/2005	Tsung-Hsi Tsai	BHT-3110-258

CONFIRMATION NO. 9584

TROXELL LAW OFFICE PLLC
5205 LEESBURG PIKE, SUITE 1404
FALLS CHURCH, VA 22041

POWER OF ATTORNEY NOTICE

OC000000041152390

Date Mailed: 04/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2010.

- 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).

/idingle/

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
11/228,233	09/19/2005	Tsung-Hsi Tsai	BHT-3110-258

CONFIRMATION NO. 9584

POA ACCEPTANCE LETTER

91395
Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman, VA 22971

OC000000041152391

Date Mailed: 04/19/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2010.

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.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Paul, et al. :
Application No. 11/228,294 : ON PETITION
Filed: September 19, 2005 :
Attorney Docket No. 11848/23 :

This is a decision on petition filed on October 20, 2005, requesting that the above-identified application be accorded a filing date of September 19, 2005, including Page 28 of the specification.

The application was submitted on September 19, 2005. However, on October 11, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, and that Page 28 of the specification appears to have been omitted.

In response, on October 20, 2005, the instant petition was submitted.

Petitioner states, "The U.S. Patent & Trademark Office asserts that page 28 of this application was missing when filed. Applicants point out that this application claims priority to the parent Application No. 11/050,762 and the grandparent Application No. 10/635,775 (Patent No. 6,920,034), which were incorporated by reference in this application. The parent and grandparent applications include page 28. Therefore, as defined by incorporation by reference, this application also includes page 28."

MPEP 201.06(c) states, in pertinent part:

> B. Application Entitled to a Filing Date
>
> If an application as originally filed included a proper explicit incorporation by reference statement (or an explicit incorporation by reference statement that has been made effective under 37 CFR 1.57(g)), the omitted specification page(s) and/or drawing figure(s) may be added by amendment provided the omitted item(s) contains only subject matter in common with a document that has been properly incorporated by reference. If the Office identified the omitted item(s) in a "Notice of Omitted Item(s)," applicant need

not respond to the "Notice of Omitted Item(s)." Applicant should, however, submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If applicants desire that Page 28 of the specification be added to the application, the appropriate procedure is by way of amendment requesting the entry of the page. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is dismissed.

Please note, the petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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	: Byoeng-Su Kim	: DECISION ON REQUEST FOR
Patent Number	: 7606022	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,307	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **694** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Paper No.: X

DATE : March 24,2008

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/228,318 Patent No.: 7254356 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document (s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.
DO NOT SENT TO ATTORNEY
If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location
7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Sm S. Lee for
SPE

2852
Art Unit

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STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20036

MAIL

DEC 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Toyoki Ue, et al.
Application Serial No.: 11/228,339
Filed: September 19, 2005
For: **RADIO COMMUNICATION DEVICE AND METHOD OF CONTROLLING TRANSMISSION RATE**

DECISION
ON PETITION

This is a decision on the petition, filed on September 19, 2005 which is being treated as a petition under 37 C.F.R. §1.181 requesting an expedited action on the merits. This petition has been considered a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

Applicant asserts that this application is entitled to special status in view of a petition to make special which was granted on January 19, 2001 in parent application 09/424,843.

A review of the continuity data of the instant application finds that this application has an effective pendency of more than five years inasmuch as it is a continuation of Application No. 10/057,897 (filed January 29, 2002), which is a continuation of Application No. 09/648,756 (filed August 28, 2000), which is a continuation of Application No. 09/424,843 (filed December 6, 1999).

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is already considered special in accordance with PTO policy.

Accordingly, the petition is **<u>DISMISSED AS MOOT</u>**.

The application is being forwarded to the examiner for expedited action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
Yoshimi Isu, et al.
Application Serial No.: 11/228,356
Filed: September 19, 2005
For: **IMAGE DECODING APPARATUS, IMAGE CODING APPARATUS, IMAGE COMMUNICATIONS SYSTEM AND CODED BIT STREAM CONVERTING APPARATUS**

DECISION
ON PETITION

This is a decision on the petition, filed on November 8, 2005 which is being treated as a petition under 37 C.F.R. §1.181 requesting an expedited action on the merits. This petition has been considered a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

This application is a divisional of application Serial Number 11/016,889 filed December 21, 2005 which is a divisional of application Serial Number 09/529,304 filed April 12, 2000.

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **<u>DISMISSED AS MOOT.</u>**

The application is being forwarded to the examiner for expedited action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Fong Pong	: DECISION ON REQUEST FOR
Patent Number	: 7596144	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,363	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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McCarthy Tetrault LLP
Box 48
Suite #4700 Toronto Dominion Bank Tower
TORONTO ON M5K 1E6 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
McGann et al.	:	
Application No. 11/228388	:	
Filing or 371(c) Date: 09/19/2005	:	DECISION
Title of Invention:	:	ON PETITION
METHOD OF CRYOPRESERVING CELLS	:	

This is a decision on the Petition to Withdraw Withholding of Abandonment Under 37 CFR 1.181, filed October 20, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed March 28, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 29, 2008. A Notice of Abandonment was mailed October 6, 2008.

The present petition

Applicant files the present Petition and asserts that a timely reply to the Office action was filed on Monday, September 29, 2008, including a request for a three (3) month extension of time and fee. In support of this assertion, Applicant includes a copy of the reply, along with a copy of an Auto-Reply Facsimile Transmission report from this Office acknowledging receipt of 52 pages from petitioner on September 29, 2008.

Office records

A review of Office records reveals that this Office received the reply, along with the extension of time request and fee on September 29, 2008.

Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due. The extension of time fee has been charged Applicant's deposit account.

The application will be referred to Technology Center Art Unit 1657 for processing of the reply filed September 29, 2008 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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Yoshimi Isu, et al.
Application Serial No.: 11/228,397
Filed: September 19, 2005
For: **IMAGE DECODING APPARATUS, IMAGE CODING APPARATUS, IMAGE COMMUNICATIONS SYSTEM AND CODED BIT STREAM CONVERTING APPARATUS**

DECISION
ON PETITION

This is a decision on the petition, filed on November 8, 2005 under 37 C.F.R. §1.181 requesting that the application be considered special and also requesting an expedited action on the merits.

A review of the continuity data of the instant application reveals that this application has an effective pendency of more than five years inasmuch as it is a division of application No. 11/016,889, filed December 21, 2004, which in turn is a division of application No. 09/529, 304, filed April 12, 2000, which itself is the national stage entry of PCT/JP97/03846 having an International Filing Date of October 23, 1997. Applicants' specification contains specific reference to the aforementioned applications.

MPEP §708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. Hence, this application, by virtue of its prolonged pendency, is considered special in accordance with PTO policy.

Accordingly, the petition is **<u>Granted</u>**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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Steven W. Weinrieb
LAW OFFICES OF STEVEN W. WEINRIEB
8717 Cold Spring Road
Potomac, MD 20854

Mail Date: 04/26/2010

Applicant	: John M. Kruelle	: DECISION ON REQUEST FOR
Patent Number	: 7661579	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/228,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **709** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

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OFFICE OF PETITIONS

In re Application of

LANGENBERGER, Nancy
Application No. 11/228,415
Filed: September 15, 2005
Attorney Docket No. **DNLA 1034345**

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 13, 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, (case was transferred to new attorney), does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **HARRIS F. BROTMAN, ESQ.**
1250 CAVE STREET, #10
LA JOLLA, CA 92037

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LISA A. HAILE
DLA PIPER RUDNICK GRAY CARY US LLP
SUITE 1100
4365 EXECUTIVE DRIVE
SAN DIEGO, CA 92121-2133

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
William Fenical et at	:	
Application No. 11/228,416	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. UCSD1630-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 7, 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 Inventor William Fenical 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 1651 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of
Dennis Schreiber
Application No. 11/228,429
Filed: September 15, 2005
Attorney Docket No. 206,864

ON PETITION

This is a decision in response to the petition, filed September 25, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Theodore J. Pierson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a final Office action mailed January 22, 2008. A Notice of Abandonment was mailed September 22, 2008. On September 25, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3617 for appropriate action by the Examiner in the normal course of business on the reply received September 25, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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PHILLIP LIU
6980, WHITEOAK DR.
RICHMOND BC V7EAZ-9 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
CHIH-CHING HSIEH	:	
Application No. 11/228,438	:	DECISION ON PETITION
Filed: 09/19/2005	:	
Attorney Docket No. GFP-3202	:	

This is decision on the petition under 37 CFR 1.181, filed June 8, 2007, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed October 6, 2005, which set a two-month extendable period to reply. The above-identified application became abandoned on December 7, 2005. On May 10, 2007, the Office mailed a Notice of Abandonment.

Petitioner asserted that he submitted a credit card payment form (PTO2038) to pay the additional claim fees of $100.00 on October 26, 2005. Petitioner stated that he placed the credit card form and a new patent application (now Application No. 11/258,062) in one envelope, which DHL delivered to the USPTO by on October 26, 2005; however, the credit payment form (PTO2038) was not processed. Although petitioner indicated that he had submitted a copy of the DHL receipt in support of his assertion, no receipt was found with the petition.

The Office file is the official record of the papers filed in this application. After reviewing the official file, the Office has not located the credit card form to pay the $100.00 additional claim fees allegedly filed on October 26, 2005. A petitioner alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Section 711.03(c)(I)(B) of the Manual for Patent Examining Procedure states:

> 37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an

> appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. In the present case, petitioner chose not to utilize the mailing procedures set forth in MPEP 711.03(c)(I)(B). Specifically, petitioner did not submit a petition under 37 CFR 1.10, a copy of a returned, date-stamped postcard receipt, or a copy of the correspondence with a proper certificate of mailing or facsimile transmission. Instead, petitioner sent the reply via DHL in the same envelope as a new application. Furthermore, the Office reminds petitioner that each file must be complete in itself, and thus, a separate copy of every paper to be filed in a patent file must be furnished for each file to which the paper pertains. 37 CFR 1.4(b). Thus, petitioner failed to submit sufficient documentary evidence to demonstrate to the Director's satisfaction that petitioner timely filed a reply with the USPTO.

Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. Any renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment must be filed within TWO MONTHS of the date of this decision. Extensions of time are available under 37 CFR 1.136(a). The Office acknowledges receipt of the credit card payment of $100.00 for the additional claim fees submitted with the petition.

Petitioner may wish to file a petition pursuant to 37 CFR 1.137(b) on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in § 1.17(m), an additional $770.00 fee for a small entity;

(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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The appropriate form for filing a petition under 37 CFR 1.137(b) accompanies this decision for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64

PTO/SB/64 (11-07)
Approved for use through 11/30/2007. 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILLIP LIU
6980, WHITEOAK DR.
RICHMOND BC V7EAZ-9 CANADA

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of :
CHIH-CHING HSIEH :
Application No. 11/228,438 : DECISION ON PETITION
Filed: 09/19/2005 :
Attorney Docket No. GFP-3202 :

This is decision on the petition under 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed October 6, 2005, which set a two-month extendable period to reply. The above-identified application became abandoned on December 7, 2005. On May 10, 2007, the Office mailed a Notice of Abandonment. On June 8, 2007, petitioner filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment, accompanied by the reply to the Notice to File Missing Parts in the form of payment of additional claim fees in the amount of $100.00. The petition was dismissed by the decision of November 9, 2007.

On November 15, 2007, petitioner filed the present petition. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This application is being referred to the Office of Patent Application Processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WEAVER AUSTIN VILLENEUVE
& SAMPSON LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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DEC 0 8 2008

In re Application of	:	
KIKUCHI, Koji	:	
Application No. 11/228,440	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. **ALPSP221**	:	FROM RECORD
	:	

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, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Beyer Law Group LLP has been revoked by the assignee of the patent application on March 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BEYER LAW GROUP LLP**
P.O. BOX 1687
CUPERTINO CA 95015-1687

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: James A. Riedell	: DECISION ON REQUEST FOR
Patent Number	: 7628878	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,469	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 05/17/2010

Applicant : James A. Riedell
Patent Number : 7628878
Issue Date : 12/08/2009
Application No : 11/228,469
Filed : 09/15/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **481** 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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Law Office of Jim Zegeer
P.O. Box 25944
Alexandria, VA 22313

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OFFICE OF PETITIONS

In re Application of
Darrell Voss
Application No. 11/228,473
Filed: September 19, 2005
Attorney Docket No. 3500-Z

: 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 August 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

It is noted that the amendment filed on August 11, 2008, states, at paragraph 4, that "the present application is also related to an application filed September 19, 2005, Serial No. 11/228,474 by the same inventor entitled TRANSMISSION SYSTEM AND METHOD for which priority is claimed". Before a determination can be made as to the sufficiency of the amendment in accordance with 37 CFR 1.78(a)(2)(i), petitioner must clarify whether Application No. 11/228,474 is sought to be included in the claim for priority.

If Application No. 11/228,474 is to be included in the claim for priority, a substitute specification must be filed, which contains the proper relationship between the instant application and Application no. 11/228,474.

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) 272-3226.

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office of Jim Zegeer
P.O. Box 25944
Alexandria, VA 22313

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OFFICE OF PETITIONS

In re Application of	:
Darrell Voss	:
Application No. 11/228,473	: DECISION ON PETITION
Filed: September 19, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3500-Z	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

It is noted that the amendment filed on August 11, 2008, states, at paragraph 4, that "the present application is also related to an application filed September 19, 2005, Serial No. 11/228,474 by the same inventor entitled TRANSMISSION SYSTEM AND METHOD for which priority is claimed". Before a determination can be made as to the sufficiency of the amendment in accordance with 37 CFR 1.78(a)(2)(i), petitioner must clarify whether Application No. 11/228,474 is sought to be included in the claim for priority.

If Application No. 11/228,474 is to be included in the claim for priority, a substitute specification must be filed, which contains the proper relationship between the instant application and Application no. 11/228,474.

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) 272-3226.

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook, et al. :
Application No. 11/228,484 :
Filed: September 19, 2005 :
Attorney Docket No. MCE016US :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010 and supplemented January 12, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before October 6, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 6, 2009. Accordingly, the date of abandonment of this application is October 7, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The petition filed is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicants.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Kia Silverbrook) was ever given a power of attorney to act on behalf of inventor Paul Lapstun, Simon Robert Walmsley or Michael J. Hollins, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook, et al.	:	
Application No. 11/228,484	:	ON PETITION
Filed: September 19, 2005	:	
Attorney Docket No. MCE016US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before October 6, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 6, 2009. Accordingly, the date of abandonment of this application is October 7, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The petition filed is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicants.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Kia Silverbrook) was ever given a power of attorney to act on behalf of inventor Paul Lapstun, Simon Robert Walmsley or Michael J. Hollins, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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 renewed petition filed on April 11, 2010 does not include a proper 3.73(b) statement. A blank copy of the statement under 3.73(b) is enclosed with this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Blank copy of the statement under 37 CFR 3.73(b).

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Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
SUI et al.	:	
Application No. 11/228,585	:	ON APPLICATION FOR
Filed: September 16, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. PRD2313USNP	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705" filed February 1, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is at least seven sixty-two (762) days, not three hundred seventy (370) 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]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL CA 95008

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OFFICE OF PETITIONS

In re Application of	:	
Zhourong Miao, et al	:	
Application No. 11/228,599	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 50U7060	:	FROM RECORD
	:	

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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jeffrey Sam Smith has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER ALLENBY
SONY CORPORATION OF AMERICA
INTELLECTUAL PROPERTY DEPARTMENT
3300 ZANKER ROAD, MD-SJ1F2
SAN JOSE, CA 95134

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
11/228,599	09/16/2005	Zhourong Miao	50U7060

CONFIRMATION NO. 9772

OC000000022899777

OC000000022899777

48838
JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

Date Mailed: 03/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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
11/228,599	09/16/2005	Zhourong Miao	

CONFIRMATION NO. 9772

OC000000022900348

OC000000022900348

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 03/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/228,599	09/16/2005	Zhourong Miao	50U7060

CONFIRMATION NO. 9772

OC000000022899777

OC000000022899777

48838
JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

Date Mailed: 03/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Zhourong Miao	: DECISION ON REQUEST FOR
Patent Number	: 7620108	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **984** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Dennis M. Flaherty, Esq.
Ostrager Chong Flaherty & Broitman P.C.
570 Lexington Avenue
New York, NY 10022-6894

Mail Date: 04/26/2010

Applicant	: Eric Paul Plourde	: DECISION ON REQUEST FOR
Patent Number	: 7635222	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/228,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SYNNESTVEDT & LECHNER, LLP
1101 MARKET STREET, SUITE 2600
PHILADELPHIA, PA 19107-2950

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
LITTLE, et al.	:	
Application No. 11/228,632	:	DECISION DISMISSING PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. **30918 USA**	:	

This is a decision on the petition under 37 CFR 1.313(a), filed May 16, 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 March 11, 2008, with the issue fee being due on or before June 11, 2008.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-7253.

The matter is being referred to Technology Center AU 3742 for appropriate processing of the RCE filed May 16, 2008, and for consideration of the concurrently filed Information Disclosure Statement.

MaGraves

Monica A. Graves
Petitions Examiner
Office of Petitions

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Dascenzo Intellectual Property Law, P.C.
522 SW 5th Ave
Suite 925
Portland, OR 97204-2126

Mail Date: 04/21/2010

Applicant	: David J. Edlund	: DECISION ON REQUEST FOR
Patent Number	: 7601302	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **940** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

Thomas A. Beck
26 Rockledge Lane
New Milford, CT 06776

COPY MAILED

MAR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Jon Prusmack	:	DECISION ON
Application No. 11/228,651	:	PETITION
Filed: September 15, 2005	:	
Title: DOUBLE TANG DESIGN	:	
ARTICULATING HUB ASSEMBLY	:	

This is a decision on the PETITION filed December 19, 2005, requesting that the above-identified nonprovisional application be accorded a filing date of September 15, 2005, with figures 7 (and 9) considered a part of the original application disclosure.

Application papers in the above-identified nonprovisional application were deposited on September 15, 2005. However, on September 19, 2005, the Initial Patent Examination Division mailed applicants a "NOTICE TO FILE CORRECTED APPLICATION PAPERS, " stating that the application had been accorded a filing date; however, figure 7 described in the specification appeared to have been omitted. (In addition, the Notice required the filing of an abstract.)

Preliminarily, it is noted that the application is also missing figure 9.

In response, applicant filed the instant petition. Petitioner maintains that Figure 7 (and 9) were in fact filed with the original application papers. In support thereof, applicants submit a copy of their stamped return-receipt postcard.

As set forth in MPEP 503:

> A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie

> evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

However, the identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as prima facie evidence of receipt of any item, which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

The instant postcard date-stamped September 15, 2005 itemizes "Drawings Figs 1-9" as being among the items filed therewith. The postcard receipt shows no indication that any item denoted was not considered among the papers received on that date. It is recommended that the number of sheets of drawings be included on the postcard. Nonetheless, in this instance, the itemization of Drawings Fig. 1-9 is persuasive that Figs. 7 and 9 were among the papers filed on September 15, 2005.

In view thereof, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is subject to refund. Accordingly, although authorized, no petition fee is being charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application

has been referred to OIPE for **processing with a filing date of September 15, 2005** and for indication in Office records that 9 sheets of drawings were present on filing, including figures 7 and 9.

Telephone inquiries specific 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Miao et al.	:	DECISION ON PETITION
Application No. 11/228,656	:	TO WITHDRAW
Filed: September 16, 2005	:	FROM RECORD
Attorney Docket No. 50U6044	:	

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 16, 2006.

The request is **NOT APPROVED**.

The Request wishes to withdraw all attorneys/agents associated with Customer Number 48838. However, since the practitioner(s) in the above identified application were appointed by naming each practitioner individually, the request under 37 C.F.R. § 1.36(b) cannot be accepted at this time. Since the Oath/Declaration appointed each practitioner individually, those practitioners cannot request to be withdrawn via Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

Telephone inquires concerning this decision should be directed to Alicia Kelley at 571-272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Garraffa, et. al : DECISION ON PETITION
Application No. 11/228,667 :
Filed: September 16, 2005 :
Docket No.: ATOMIC-16 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 19, 2005

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed June 21, 2006. Notice of Abandonment was mailed November 6, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply 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 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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 Patent Publication 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

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Alexandria, VA 22313-1450
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LAW OFFICE OF JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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SEP 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Paniconi	:	
Application No. 11/228,681	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 50U7057	:	FROM RECORD
	:	

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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Law Office Of Jeffrey S. Smith has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Christopher Allenby
Sony Corporation of America Intellectual
Property Department
3300 Zanker Road, MD-SJ1F2
San Jose, CA 95134

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Joye, et al.	:	
Application No. 11/228,691	:	DECISION ON PETITION
Filed: September 19, 2005	:	TO WITHDRAW
Attorney Docket No. 018468-001120US	:	FROM RECORD
	:	

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 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 Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the 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 April Wise at 571-272-1642.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CryoVascular Systems, Inc.
160 Knowles Drive
Los Gatos, CA 85032

cc: FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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JUN 06 2006
OFFICE OF PETITIONS

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

In re Application of	:	
Jha et al	:	
Application No. 11/228,692	:	DECISION GRANTING PETITION
Filed: September 16, 2005	:	
Attorney Docket No.: NVDA/P001709	:	
Title of Invention: Virtual	:	
Processing Chains	:	

This is a decision on the petition filed November 16, 2005, requesting that a Notice Of Omitted Item(s) in a Nonprovisional Application("Notice") mailed October 7, 2005, be withdrawn.

The application was filed on September 16, 2005. However, on October 7, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of September 16, 2005 but page 3 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 25 pages of specification were filed including page 3 on September 16, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists " Specification(25)pages". The petition is further accompanied by a copy of page 3 of the specification.

Applicant's postcard receipt is prima facie evidence that at least 25 pages of specification (description and claims), including page 3 were received on September 16, 2005, but page 3 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 3 of the specification was received on September 16, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is **Granted**. The $400.00 petition fee will be refunded.

Pages 3 of the specification supplied on November 16, 2005, will be used for processing and examination purposes.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 16, 2005 using the papers received on that date and the copy of page 3 of the specification supplied on November 16, 2005.

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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BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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NOV 02 2005

OFFICE OF PETITIONS

In re Application of :
Bas Ording :
Application No. 11/228,700 : ON PETITION
Filed: September 16, 2005 :
Attorney Docket Number: APLO1P307X4 :

This is a decision on the petition filed October 17, 2005, requesting a corrected filing date under 37 CFR 1.10(c) of September 16, 2005, instead of the presently accorded filing date of September 17, 2005. The petition is being treated under 37 CFR 1.10(d).

Petitioners acknowledge that the date of the deposit in Express Mail shown on petitioners' Express Mail receipt is September 17, 2005, but argue that the application was actually deposited with the USPS on September 16, 2005.

In support, petitioners have provided a copy of Express Mail Customer label No. EV623186826US, the same Express Mail number appearing on the itemized transmittal sheet accompanying the original application papers located in the Official file and the postcard receipt, showing a "date-in" of September 17, 2005 and the reverse of the label with a postmark of September 16, 2005. A review of the USPS Internet Track & Confirm Database also corroborates that the item bearing Express Mail Label No. EV623186826US was "accepted" and "enroute" on September 16, 2005 and not on September 17, 2005. In view thereof, it is concluded that the correct date of deposit in Express Mail service is September 16, 2005. Therefore, the application is entitled to a filing date of September 16, 2005.

The petition is **GRANTED**. In view thereof, no petition fee is due and none has been charged.

This matter is being referred to the Office of Initial Patent Examination for a correction of the filing date to September 16, 2005, NOT SEPTEMBER 17, 2005, and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Morgan Lewis & Bockius LLP/ AI
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Bas Ording	: DECISION ON REQUEST FOR
Patent Number	: 7614008	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,700	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **989** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Morgan Lewis & Bockius LLP/ AI
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 05/17/2010

Applicant : Bas Ording
Patent Number : 7614008
Issue Date : 11/03/2009
Application No : 11/228,700
Filed : 09/16/2005

: 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 **1021** 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).

17637-00002 PATENT

OIPE IAP
FEB 13 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Farha, Floyd E.

Examiner: Bos, Steven

Serial No: 11/228,713

Filed: September 15, 2005

Group: 1754

For: SULFUR REMOVAL USING FERROUS CARBONATE ABSORBENT

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL BECAUSE OF AGE

(M.P.E.P. § 708.02 IV)

Applicant hereby requests the examination of the above-identified application for patent be advanced under 37 C.F.R. 1.102(c) and M.P.E.P. § 708.02 IV. The inventor of the above-identified invention is over the age of 65 and is therefore entitled to advanced examination under M.P.E.P. § 708.02 IV. The inventor's statement in support of the foregoing is attached. It is believed that no fee is due. *See* 37 C.F.R. 102(c).

Monty L Ross
Registration No. 28,899

February 10, 2006
LOCKE LIDDELL & SAPP, LLP
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776
(214) 740-8519
(214) 740-8800 (Fax)

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAR 14 2006

DALLAS: 17637.00002: 1471883v1

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SABIC Innovative Plastics - IP Legal
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert R. GALLUCCI, et *al.*	:	
Application No. 11/228,729	:	DECISION ON PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **US 186412-1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

THE TWO-MONTH PERIOD FOR FILING AN APPEAL BRIEF UNDER 37 CFR 41.37 (ACCOMPAINIED 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 December 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 16, 2009.

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 a Notice of Appeal with fee $540; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1796 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **NOVAK DRUCE $ QUIGG, LLP**
1300 EYE STREET NW, SUITE 1000 WEST
WASHINGTON, DC 20005

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APPLE C/O MORRISON AND FOERSTER, LLP
LOS ANGELES
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of	:	
Bartley K. ANDRE, et al	:	
Application No. 11/228,737	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. P3478US1/63266-5151-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 August 28, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Apple c/o Morrison and Foerster, LLP has been revoked by the assignee of the patent application on September 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-.6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GARY WILLIAMS, ESQ.
MORGAN, LEWIS & BOCKIUS
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUTIE 700
PALO ALTO, CA 94306

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P.O. BOX 70250
OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of Andre et al. Application No. 11/228,737 Filed: September 16, 2005 Attorney Docket No. P3478US1/63266-5151-US	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 30, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Weaver Austin Villeneuve & Sampson, LLP, has been revoked by the applicant of the patent application on December 30, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MORGAN LEWIS & BOCKIUS LLP/ AI
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
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THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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AUG 0 1 2008

In re Application of	:	
Yong Chul Kim et al.	:	
Application No. 11/228,753	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHFRAW
Attorney Docket No. H&C-104T	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed November 9, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to the firm of Thelen Reid Brown Raysman & Steiner LLP has been revoked by the assignee of the patent application on March 12, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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BARNES & THORNBURG
600 ONE SUMMIT SQUARE
FORT WAYNE IN 46802

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JUN 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Almeda et al.	:	
Application No. 11/228,769	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 40116/82941	:	

This is a decision on the petition under 37 CFR 1.102(d), filed May 2, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, 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) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, 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 is accompanied by a declaration by a statement from the attorney of record, along with a copy of a letter from the prospective manufacturing company, and complies with the above stated requirements. 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.

This matter is being referred 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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CALIFORNIA INSTITUTE OF TECHNOLOGY
1200 E.CALIFORNIA BLVD.
M/C 201-85
PASADENA, CA 91125

Mail Date: 04/26/2010

Applicant	: Zaiwei Li	: DECISION ON REQUEST FOR
Patent Number	: 7615644	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/228,788	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

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SEP 27 2006
OFFICE OF PETITIONS

In re Application of
Young et al. et al.
Application No. 11/228,792
Filed: September 16, 2005
Attorney Docket No. 3392P2773cip
Title: Wipe Dispensing System

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 19, 2005 (certificate of mailing December 16, 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 September 16, 2005, without an executed oath or declaration. Accordingly, on October 18, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of December 18, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed 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 (1) and (2).

As to item (1), 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. 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. Petitioner has failed to provide sufficient evidence regarding an alleged refusal.

As to item (2), the signature block of inventor of inventor Young contains non-initialed alterations to the declaration. A newly executed declaration without alterations or an application data sheet (ADS) which contains the proper address for inventor Young should be provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re Application of
Young et al. et al.
Application No. 11/228,792
Filed: September 16, 2005
Attorney Docket No. 3392P2773cip
Title: Wipe Dispensing System

DECISION

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 9, 2007.

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 the Office of Petitions 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

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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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Hernandez, et al.	:	
Application No. 11/228,823	:	DECISION ON PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 06821/006615	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 7, 2006 (certificate of mailing date April 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.

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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.

§119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

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.

The application is being forwarded to Technology Center AU 1755 for appropriate action on the amendment submitted April 7, 2006 (certificate of mailing date April 5, 2006), including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/610,651.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/228,823	09/16/2005	1755	1300	06821/06615		22	4

CONFIRMATION NO. 9351

CORRECTED FILING RECEIPT

OC000000020197962

24024
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Date Mailed: 08/25/2006

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)

Pamela Hernandez, Medina, OH;
Stephen Robert Peters, Mentor, OH;

Power of Attorney: The patent practitioners associated with Customer Number **24024**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/610,651 09/16/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/228,823

Projected Publication Date: 12/07/2006

Non-Publication Request: No

Early Publication Request: No

Title

Water-based asphalt coating composition

Preliminary Class
106

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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BRUCE H. JOHNSONBAUGH
ECKHOFF & HOPPE
333 SACRAMENTO STREET
SAN FRANCISCO, CA 94111

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DEC 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Levin, Paul D.	:	
Application No. 11/228,827	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 9529	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 16, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's driver's license and birth certificate. 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.

This matter is being referred to the Technology Center Art Unit 3736 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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HAMILTON, BROOK, SMITH
REYNOLDS, P.C.
530 VIRGINIA ROAD
PLO. BOX 9133
CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
Howard A. HELLER
Application No. 11/228,838
Filed: September 16, 2005
Attorney Docket No. 2479.2086-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on April 26, 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 first copied address indicated below.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,838	09/16/2005	Howard A. Heller	

CONFIRMATION NO. 9004

OC000000023736636

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Date Mailed: 05/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2007.

- 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).

Diane Goodlow

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,838	09/16/2005	Howard A. Heller	

CONFIRMATION NO. 9004

OC000000023736636

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Date Mailed: 05/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,838	09/16/2005	Howard A. Heller	TAN-2-1557.02.US

CONFIRMATION NO. 9004

OC000000023736676

24374
VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 05/07/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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OFFICE OF PETITIONS

JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL CA 95008

In re Application of	:	
CARRIG	:	
Application No. 11/228,844	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 50V8176	:	FROM RECORD
	:	

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 16, 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, "I have left private practice", 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: Christopher Allenby
Sony Corporation of America
Intellectual Property Department
3300 Zanker Road, MD-SJ1F2
San Jose, CA 95134

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
11/228,844	09/16/2005	James J. Carrig	50V8176

CONFIRMATION NO. 9018

OC000000021005126

48838
JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

Date Mailed: 10/27/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received or is improper.
- The 37 CFR 3.73(b) Statement does not contain a complete chain of title from the original owner to the assignee.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,844	09/16/2005	James J. Carrig	50V8176

CONFIRMATION NO. 9018

OC000000021005126

48838
JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

Date Mailed: 10/27/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received or is improper.
- The 37 CFR 3.73(b) Statement does not contain a complete chain of title from the original owner to the assignee.

Sheryl Sue Holloway
Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

MONICA A GRAVES
OP (571) 272-7253

NEW ATTORNEY/AGENT COPY

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Hebert et al.	:	
Application No. 11/228,845	:	Decision According Status
Filed: September 16, 2005	:	Under 37 CFR 1.47(a)
Attorney Docket No. 65684-0296	:	
For: Apparatus and Methods for	:	
Directional Delivery of Laser	:	
Energy	:	

This is a decision on the petition under 37 CFR 1.47(a) filed April 6, 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.

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Chris J. Hebert	: DECISION ON REQUEST FOR
Patent Number	: 7572254	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **897** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ARTHUR M. REGINELLI
RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER, FOURTH FLOOR
AKRON, OH 44308-1456

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SEP 29 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Larry Areaux et al	:
Application No. 11/228,849	:
Filed: September 16, 2005	:
Attorney Docket No. PMT.P.US0001	:

This is a decision on the petition filed May 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 formal drawings in a timely manner in reply to the Notice of Allowance mailed January 24, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 25, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.
5600 COTTLE ROAD, NHGB/0142
IP DEPARTMENT
SAN JOSE, CA 95193

Mail Date: 04/26/2010

Applicant	: Masaru Fukuta	: DECISION ON REQUEST FOR
Patent Number	: 7581123	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/228,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **896** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Ralf Wagner	: DECISION ON REQUEST FOR
Patent Number	: 7573830	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,882	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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SHIDONG LI
1089 VISTA GRANDE
MILLBRAE CA 94030

MAILED

MAR 1 2 2010

OFFICE OF PETITIONS

In re Application of	:	
Shidong LI	:	
Application No. 11/228,910	:	DECISION ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition, filed July 14, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **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 non-final Office action mailed December 22, 2008, which set a three (3) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on March 23, 2009.

Petitioner asserts that a proper response to the Office action dated December 22, 2008 was mailed to the office in a timely manner. Petitioner has provided the Office with a copy of a U.S. Postal Service Delivery Receipt with the date of March 23, 2009. However, the U.S. Postal Receipt does not have a legible postmark date and does not provide the application number to which the documents were sent.

A review of the office the records indicates the documents were not received in the office until March 26, 2009 with no certificate of mailing. A Notice Requiring Extension of Time Fee was mailed on June 10, 2009. No extension of time fees were submitted, which made the response untimely filed.

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 $810.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if 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 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 Michelle R. Eason at (571) 272-4231.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

DENNIS T. GRIGGS
GRIGGS BERGEN LLP
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of
DAVIS, Raymond E.
Application No. 11/228,915
Filed: September 19, 2005
Attorney Docket No. **25922-760.831**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **GRIGGS BERGEN, LLP** has been revoked by the assignee of the patent application on July 31, 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: **MICHAEL A. O'NEIL, P.C.**
5949 SHERRY LANE, SUITE 820
DALLAS TX 75225

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51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Carrig et al.	:	DECISION ON PETITION
Application No. 11/228,919	:	TO WITHDRAW
Filed: September 16, 2005	:	FROM RECORD
Attorney Docket No. 50V8175	:	

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 16, 2006.

The request is **NOT APPROVED**.

The Request wishes to withdraw all attorneys/agents associated with Customer Number 48838. However, since the practitioner(s) in the above identified application were appointed by naming each practitioner individually, the request under 37 C.F.R. § 1.36(b) cannot be accepted at this time. Since the Oath/Declaration appointed each practitioner individually, those practitioners cannot request to be withdrawn via Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

Telephone inquires concerning this decision should be directed to Alicia Kelley at 571-272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
James J. CARRIG, et *al.* :
Application No. 11/228,919 : DECISION ON PETITION
Filed: September 16, 2005 : UNDER 37 CFR 1.181
Attorney Docket No. **50V8175** :

This is a decision on the petition, filed June 30, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. Note 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the restriction requirement mailed July 1, 2008, which set a one (1) month or thirty (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on May 6, 2009.

Petitioner asserts that the Office action dated July 1, 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. *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).

However, the filed record discloses that a request to withdraw as attorney of record was submitted on June 16, 2006 but was not accepted because the request was improper. The file record also discloses that a change of correspondence address with revocation of previous powers of attorney was submitted on August 1, 2006. Unfortunately, the request included an improper Statement Under 37 CFR 3.73(b) in that the statement failed to include a proper chain of title from the original owners to the current assignee(s) of record.

In view of the above, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

Petitioner may wish to 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 $1620 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).

If, Ms. Sheryl Sue Holloway desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted (including a proper statement under 37 CFR 3.73(b)). A courtesy copy of this decision is being mailed to Ms. Holloway, 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.

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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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 Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **SHERYL SUE HOLLOWAY**
BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Application of
James J. Carrig, et al.
Application No. 11/228,919
Filed: September 16, 2005
Attorney Docket No. 80398-P673

DECISION ON PETITION

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 21, 2010, or in the alternative a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Petitioner has not satisfied the showing requirement under 37 CFR 1.137(a) as the failure to submit a proper request to withdraw from representation or a proper power of attorney was not unavoidable

This is also a decision on the petition under 37 CFR 1.137(b).

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 1, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition under 37 CFR 1.137(b) is **GRANTED**.

As authorized, the $1620 fee required by 37 CFR 1.137(b) will be charged to petitioner's Deposit Account No. 022666.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or the status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received May 21, 2010.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

A & G Intellectual Property Group, LLC
PO Box 4254
Morgantown, WV 26504

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

1751

RE: **Petition to Make Special**
Application Number 11-228929
Filing Date 9-16-05
Title Metal Products Cleaning Composition
First Named Inventor Dolores Rager
Art Unit
Examiner Name
Attorney Docket Number AG0004

I, Dolores J. Rager hereby request that the United States Non-Provisional Patent Application entitled Metal Product Cleaning Composition be made special and thus advanced in examination in accordance with 37 C.F.R. 1.102(c) due to the applicants' age of over 65 years. I hereby state, in accordance with the Manuel of Patent Examining Procedure 708.02, that I am 72 years old as of the filing date of this invention. The fee required by 37 C.F.R. 1.17(h) is not applicable because this petition to make special is requested due to the age of the inventor (37 C.F.R. 1.102(d)).

Respectfully Yours,

Dolores J. Rager

~~Dolores Rager~~
Dolores Rager

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

OCT 2 0 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Ashok Bhatnagar	: DECISION ON REQUEST FOR
Patent Number	: 7600537	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1062** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P.O. BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED
DEC 22 2008

In re Application of	:
Di-Jia Liu et al	:
Application No. 11/228,949	: DECISION ON PETITION
Filed: September 16, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 050-98-037DIV-3144	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 28, 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.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This 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 to the prior-filed application.

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
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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
11/228,949	09/16/2005	1797	1000	050-98-037DIV-3144	20	3

CONFIRMATION NO. 3807

CORRECTED FILING RECEIPT

128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

OC000000033734251

Date Mailed: 12/22/2008

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)

Di-Jia Liu, Naperville, IL;
Daniel R. Winstead, Schaumburg, IL;
Peter M. Michalakos, Chicago, IL;

Power of Attorney:
Roger Criss--25570
Larry Palguta--29575
Jeanne Suchodolski--34936
Verne Kreger Jr--35231
Robert Desmond--38430

Domestic Priority data as claimed by applicant

This application is a CON of 10/431,477 05/07/2003 PAT 7,037,878
which is a DIV of 09/379,036 08/23/1999 PAT 6,576,199
which claims benefit of 60/101,140 09/18/1998

Foreign Applications

If Required, Foreign Filing License Granted: 12/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/228,949**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Environmental control system including ozone-destroying catalytic converter having anodized and washcoat layers

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).

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HONEYWELL/SHIMOKAJI
PATENT SERVICES
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Di-Jia Liu	: DECISION ON REQUEST FOR
Patent Number	: 7604779	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/228,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **984** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Squire, Sanders & Dempsy L.L.P.
Patent Department
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

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In re Application of	:	
Kok Seng Foo, et al.	:	
Application No. 11/228,962	:	DECISION ON PETITION
Filed: September 15, 2005	:	TO WITHDRAW
Attorney Docket No. 36004.00011	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 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 Song Zhu on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kok Seng Foo**
Blk 719 Jurong West Avenue 5, #03-56
Singapore, 640719
Singapore

cc: **Thelen, Reid, Brown, Raysman & Steiner LLP**
P.O. Box 640640
San Jose, CA 95164-0640

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,962	09/15/2005	Kok Seng Foo	36004.00011

CONFIRMATION NO. 1788

POWER OF ATTORNEY NOTICE

30256
SQUIRE, SANDERS & DEMPSEY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

OC000000031123846

Date Mailed: 07/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/10/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ALEXANDRIA, VA 22313-1450
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Roy W. Martin
1440 Palmer
Downers Grove, IL 60516

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In re Application of	:	
Perry L. Martin, et. al.	:	
Application No. 11/228,985	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. TOX-07-1168R	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed on October 7, 2005. A Notice of Abandonment was mailed June 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a substitute specification and replacement abstract; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JJGJR.: 10-07

Paper No: __

DORT PATENT, P.C.
BOX 26219
CRYSTAL CITY STATION
ARLINGTON VA 22215

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OCT 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Chelen	:	
Application No. 11/229,006	:	DECISION
Filing Date: 16 September, 2005	:	
Attorney Docket No.: SUPR.P001.A	:	

This is a decision on the petition filed on 15 August, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

NOTE: **The record appears to contain conflicting address data for Petitioner–the Arlington, VA, address above, and an Alexandria,VA, address set forth on the petition. A courtesy copy of this decision will be sent to the address on the petition, however, all future correspondence will continue to be directed by the Office to the (Arlington) address of record until such time that Petitioner files a proper Notice of Change of Address and/or otherwise corrects the correspondence information associated with Petitioner's Customer Number.**

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (oath/declaration, fees) mailed on 10 November, 2005, with reply due absent extension of time on or before 10 January, 2006;
- the instant application went abandoned by operation of law after midnight 10 January, 2006;
- the Office mailed a Notice of Abandonment on 17 July, 2006;
- on 15 August, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of an oath/declaration and fees, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not

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or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[8] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to OIPE for further processing in due course.

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[8] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
DAVID BOGART DORT
1700 DIAGONAL ROAD/STE. 300
ALEXANDRIA, VA 22314

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[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KENTA SUZUE
P.O. BOX 366
637 MAIN STREET
HALF MOON BAY, CA 94019

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Matthew Willamson et al	:	
Application No. 11/229,013	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. SANA 1006-2	:	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 May 8, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Haynes Beffel & Wolfeld LLP has been revoked by the assignee of the patent application on June 23, 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 Irvin Dingle at 571-272- 3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

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DAFFER MCDANEIL LLP
P.O. BOX 684908
AUSTIN TX 78768

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NOV 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Schilling et al.	:	
Application No. 11/229,017	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 5858-05900	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed January 09, 2006, to make the above-identified application special based on the ground of prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

An application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(h) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:
(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition meets the requirements set forth in M.P.E.P. § 708.02, Section I.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned 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 2883 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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HARMAN - BRINKS HOFER CHICAGO
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Bernd Iser, et al.	:	
Application No. 11/229,027	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 11336/1129 (P05007US)	:	FROM RECORD
	:	

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 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client 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. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

Further, the request cannot be approved because practitioners were not appointed by customer number 81166. In order to withdraw by customer number practitioners must withdraw by the customer number they were appointed.

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. 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

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/26/2010

Applicant	: Bernd Iser	: DECISION ON REQUEST FOR
Patent Number	: 7630881	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/229,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1118** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Laroia, et al.	:	
Application No. 11/229,040	:	DECISION
Filed: 16 September, 2005	:	
Attorney Docket No: 060617U1	:	

This is a decision on the petition filed on 29 January, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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.

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the non-final Office action mailed on 22 May, 2009, with reply due absent extension of time on or before 22 August, 2009.

The application went abandoned by operation of law after midnight 22 August, 2009

The Office mailed the Notice of Abandonment on 28 December, 2009.

On 29 January, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an amendment and made a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2611 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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www.uspto.gov

Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Ian W. Kaye	: DECISION ON REQUEST FOR
Patent Number	: 7622207	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,045	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST., SUITE 4900
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Edward Czajka et al	:	
Application No. 11/229,055	:	ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. HFC-06-1000CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 7, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 8, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of :
Johannes KOLLETZKI :
Application No. 11/229,059 :
Filed: September 15, 2005 :
Attorney Docket No. H105012USU :
(P04086US)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 7, 2005, for submission of (1) the $300 filing fee; (2) an executed oath or declaration; (3) a $130 surcharge fee for the late filing of an executed oath or declaration; (4) replacement drawings; (5) a $500 search fee; (6) a $200 examination fee. 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 8, 2005. A Notice of Abandonment was mailed on June 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, which includes the items required by the Notice of October 7, 2005, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of October 7, 2005 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Karen K. Gleason	: DECISION ON REQUEST FOR
Patent Number	: 7651760	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,030,724	2006-04-18	11229079	2005-09-16	109875-10

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Thomas F. Woods/	Date (YYYY-MM-DD)	2010-07-26
Name	Thomas F. Woods	Registration Number	36726

This collection of information is required by 37 CFR 1.378(c). 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 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7030724
Issue Date: April 18,2006
Application No. 11229079
Filed: September 16,2005
Attorney Docket No. 90031.02US02

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 26,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

MAR 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Gordon Alan Feingold, et al.	:	
Application No. 11/229,098	:	DECISION GRANTING PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9138.0041-00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 21, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3664 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

COPY MAILED

MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Howard W. LUTNICK, et al	:	
Application No. 11/229,107	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. CF-37 DIV 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 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 S. Rogers on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. 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 undersigned at 571-272-6735.

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HOWARD W. LUTNICK
180 EAST 64TH STREET
NEW YORK, NY 10021

DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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
11/229,107	09/16/2005	Howard W. Lutnick	CF-37 DIV 2

CONFIRMATION NO. 2057

POWER OF ATTORNEY NOTICE

OC000000029169378

64558
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Date Mailed: 03/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/19/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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NEW YORK, NY 10036-8704

In re Application of	:	
Howard W. LUTNICK, et al	:	
Application No. 11/229,107	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. CF-37 DIV 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 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 S. Rogers on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. 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 undersigned at 571-272-6735.

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HOWARD W. LUTNICK
180 EAST 64TH STREET
NEW YORK, NY 10021

DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/229,107	09/16/2005	Howard W. Lutnick	CF-37 DIV 2

CONFIRMATION NO. 2057

POWER OF ATTORNEY NOTICE

64558
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

OC000000029169378

Date Mailed: 03/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/19/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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HOWARD W. LUTNICK
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NEW YORK, NY 10021

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NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 22313145050 *0059-14106-01-41

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Jiang Ding	: DECISION ON REQUEST FOR
Patent Number	: 7572878	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,110	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Martin Moynihan
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

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In re Application of :
Cohen, et al. :
Filed: September 19, 2005 : ON PETITION
Application No. 11/229,119 :
Atty. Dkt. No.: 30391 :

This decision is in response to the "RESPONSE TO MISSING PARTS," filed December 9, 2005. This matter is being treated as a petition to accord the above-identified application a filing date of September 19, 2005 with figures 5G-5H as part of the original application as filed.

The application was filed September 19, 2005. The Notice to File Missing Parts of Incomplete Nonprovisional Application (Notice) mailed October 13, 2005 indicated, *inter alia*, that the application had been accorded a filing date but that figure 5G-5H appeared to have been omitted from the application as filed.

In response, the petitioners herein argue that the application as deposited included 35 sheets of drawings, including a sheet containing Figures 5G and 5H, and have presented as proof of mailing and proof of receipt of the figures in question a return postcard acknowledging receipt of 35 sheets of drawings date stamped by the Office on September 19, 2005. A copy of the drawing sheet containing Figures 5G and 5H purportedly filed with the application on September 19, 2005 was submitted herewith.

The original drawing sheet containing Figures 5G-5H has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of September 19, 2005 is GRANTED.

Since the original drawing sheet containing Figures 5G-5H cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 19, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

In re Application of :
Akihiko Itami, et al :
Application No. 11/229,130 : DECISION DISMISSING
Filed: September 17, 2005 : PETITION
Attorney Docket No. KON-2030 :

This is a decision on the petition filed November 15, 2005, requesting that the above-identified application be accorded a filing date of September 15, 2005, rather than the presently accorded date of September 17, 2005. The petition is properly being treated under 37 CFR 1.10(d).

Petitioners maintain that the application was deposited in Express Mail service with the U. S. Postal Service (USPS) on September 15, 2005. However, the USPS incorrectly entered the "date-in" on the express mailing label as September 17, 2005. Accordingly, petitioners request that the application be accorded a filing date as of the actual date of deposit with the USPS.

Paragraph (a) of 37 C.F.R. §1.10 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 USPTO on the date of deposit with the USPS. The date of deposit with USPS is shown by the "date-in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPS receipt date as the filing date. See § 1.6(a).
>
> (Emphasis supplied).

Paragraph (b) of 37 C.F.R. § 1.10(b) further provides that:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail"

> mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EV 733807227 US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of September 17, 2005 bear that "Express Mail" number.

However, petitioner has not met the showing required under 37 CFR § 1.10(d)(3). Petitioner's application was accorded a filing date of

September 17, 2005, and the evidence supports a conclusion that this is the date of deposit of the correspondence with the USPS. The USPS Track & Confirm restoration record shows that the correspondence mailed under "Express Mail" number EV 733807227 was accepted by the USPS on September 17, 2005 at 4:02 am, and actual delivery to the USPTO occurred on September 19, 2005 at 5:53 am (copy of printout enclosed). Petitioner has submitted no statement from the USPS supporting a conclusion that the USPS erred in entering the date of acceptance of the "Express Mail" package.

Furthermore, petitioner's arguments and evidence have been considered, but not found persuasive that the "date-in" on the "Express Mail" mailing label entered by the USPS (and as set forth in the Express Mail database) was incorrectly entered. For this purpose, petitioner has submitted:

(1) an Affidavit from Donald C. Lucas, attesting to signing the application on September 15, 2005 and giving the USPS Express Mail envelope with the signed documents therein to Ms. Erin C. Henderson for hand-delivery to the Grand Central Terminal US Post Office. Attorney Lucas indicates that, while the Grand Central Terminal US Post Office has a drop box for Express Mail that remains open until 7:00p.m., the Post Office itself remains open until 9:00p.m. on weekdays. Attorney Lucas notes that Mr. Timothy D. Meade accompanied Ms. Henderson to the local USPS office on September 15, 2005.

(2) an Affidavit from Erin C. Henderson, attesting to having hand-delivered the correspondence mailed under Express Mail label No. EV 733807227 US to an USPS employee on September 15, 2005 at about 7:00p.m. Ms. Henderson states that the USPS employee did not return the Express Mail mailing label at that time.

(3) an Affidavit from Timothy D. Meede, attesting to accompanying Ms. Erin C. Henderson to the USPS and witnessing Ms. Henderson hand-deliver the correspondence to an USPS employee behind the counter on September 15, 2005.

The present petition fails to include any 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. The affidavits submitted with the petition are not sufficient.

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; the application 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.

In view of the above, the petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and 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

Enclosure - USPS printout

Brinkley, Sherry

From: U.S._Postal_Service_ [U.S._Postal_Service@usps.com]
Sent: Wednesday, November 29, 2006 11:19 AM
To: Brinkley, Sherry
Subject: U.S. Postal Service Track & Confirm email Restoration - EV73 3807 227U S

This is a post-only message. Please do not respond.

Sherry Brinkley has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: EV73 3807 227U S

Service Type: Express Mail - Post Office to Addressee

Shipment Activity	Location	Date & Time
Delivered	ALEXANDRIA VA 22313	09/19/05 5:53am
Arrival at Unit	DULLES VA 20102	09/19/05 5:34am
Enroute	DULLES VA 20102	09/19/05 2:00am
Enroute	WASHINGTON DC 20074	09/17/05 3:19pm
Acceptance	NEW YORK NY 10199	09/17/05 4:02am
Enroute	NEW YORK NY 10199	09/17/05 12:19am

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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OFFICE OF PETITIONS

In re Application of :
Akihiko Itami, et al :
Application No. 11/229,130 :
Filed: September 17, 2005 :
Attorney Docket No. KON-2030 :

DECISION DISMISSING PETITION

This is a decision on the renewed petition under 37 CFR 1.10(d), filed January 30, 2007, requesting that the above-identified application be accorded a filing date of September 15, 2005, rather than the presently accorded date of September 17, 2005.

The petition is **DISMISSED**.

Any further request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to the Technology Center with the presently accorded filing date of September 17, 2005.

As discussed in the earlier decision, any person filing correspondence under 37 CFR 1.10 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. However, the showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail."

Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

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; the application 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. Conversely, evidence created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared regarding the deposit of the correspondence); or created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail") cannot be accepted under the terms of the rule.

Petitioner maintains that the application was deposited in Express Mail service with the U. S. Postal Service (USPS) on September 15, 2005. However, the USPS incorrectly entered the "date-in" on the express mailing label as September 17, 2005. In support, petitioner submits copies of communications dated September 15, 2005 that were sent to the client indicating that the application was filed. Petitioner does not provide any evidence from the USPS or that came into being after deposit and within one business day after the deposit of the correspondence as Express Mail.

Petitioner's evidence has been considered, but is not deemed persuasive that the "date-in" set forth in the Express Mail database or on the "Express Mail" mailing label was incorrectly entered by the USPS.

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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NEW YORK NY 10016

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FEB 21 2008

OFFICE OF PETITIONS

In re Application of :
Akihiko Itami, et al :
Application No. 11/229,130 :
Filed: September 17, 2005 :
Attorney Docket No. KON-2030 :

DECISION DENYING PETITION

This is a decision on the renewed petition filed July 11, 2007, requesting that the above-identified application be accorded a filing date of September 15, 2005, rather than the presently accorded date of September 17, 2005. The petition is being considered under 37 CFR 1.10(d).

The renewed petition is granted to the extent that the decision has been reconsidered; however, the petition is **DENIED**. This decision may be viewed as a final agency action with in the meaning of 5 U.S.C. 704 and for purposes of seeking judicial review. See MPEP §1002.02(b).

BACKGROUND

Petitioners argue that the application was deposited in Express Mail service with the U. S. Postal Service (USPS) on September 15, 2005. However, the USPS incorrectly entered the "date-in" on the express mailing label as September 17, 2005. Accordingly, petitioners request that the application be accorded a filing date as of the actual date of deposit with the USPS.

RELEVANT STATUTE AND REGULATIONS

35 U.S.C. 111(a) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

Paragraph (a) of 37 C.F.R. §1.10 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 USPTO on the date of deposit with the USPS. The date of deposit with USPS is shown by the "date-in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).
>
> (Emphasis supplied).

Paragraph (b) of 37 C.F.R. § 1.10(b) further provides that:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to

the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "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.

OPINION

Petitioners have shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EV 733807227 US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of September 17, 2005 bear that "Express Mail" number.

Petitioners' application was accorded a filing date of September 17, 2005, and the evidence supports a conclusion that this is the date of deposit of the correspondence with the USPS. The USPS Track & Confirm restoration record shows that the correspondence mailed under "Express Mail" number EV 733807227 was accepted by the USPS on September 17, 2005 at 4:02 am, and actually delivered to the USPTO on September 19, 2005 at 5:53 am.

Petitioners' arguments and evidence have been reconsidered, but not found persuasive that the "date-in" on the "Express Mail" mailing label entered by the USPS (and as set forth in the Express Mail database) was incorrectly entered. Petitioners have not provided a statement from the USPS supporting a conclusion that the USPS erred in entering the date of acceptance of the "Express Mail" package. However, the evidence provided for this purpose includes:

(1) an Affidavit from Donald C. Lucas, attesting to signing the application on September 15, 2005 and giving the USPS Express Mail envelope with the signed documents therein to Ms. Erin C. Henderson for hand-delivery to the Grand Central Terminal US Post Office. Attorney Lucas indicates that, while the Grand Central Terminal US Post Office has a drop box for Express Mail that remains open until 7:00p.m., the Post Office itself remains open until 9:00p.m. on weekdays. Attorney Lucas notes that Mr. Timothy D. Meade accompanied Ms. Henderson to the local USPS office on September 15, 2005.

(2) an Affidavit from Erin C. Henderson, attesting to having hand-delivered the correspondence mailed under Express Mail label No. EV 733807227 US to an USPS employee on September 15, 2005 at about 7:00p.m. Ms. Henderson states that the USPS employee did not return the Express Mail mailing label at that time.

(3) an Affidavit from Timothy D. Meede, attesting to accompanying Ms. Erin C. Henderson to the USPS and witnessing Ms. Henderson hand-deliver the correspondence to an USPS employee behind the counter on September 15, 2005.

The present petition also fails to include any evidence 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. For this purpose, petitioners refer to:

(1) a copy of a fax sent on September 15, 2005, with a time of 11:53(a.m.) which was sent to their client.

(2) a copy of the reporting letter dated September 15, 2005 sent to the their client.

(3) a declaration by Margaret Rogers stating that normal business practice in the firm is to transmit reporting letters to clients the same day that new applications are filed.

Petitioners argue that the declaration should be given the same weight as a log book because both evidence the normal business practice of the firm. However, while a log book may be accepted as evidence that came into being after deposit and within one business day thereof, the components required for the acceptable log book evidence must contain information such as the Express Mail number; the application 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. In this case, the first paragraph of the reporting letter simply states:

"In accordance with your instructions of September 9, 2005, we have forwarded the above-reference application to the U.S. Patent and Trademark Office for filing."

No where does this reporting letter indicate that this application was mailed via "Express Mail Post Office to Addressee" on a specified day. Further, Ms. Rogers suggest that new applications are filed on the same day as the reporting letter are transmitted to

the client. This evidence may support a conclusion that this is your general practice; however, there is no showing in this particular instance that this practice was followed. Petitioners' evidence is not persuasive that the reporting letter should be given the weight of a log book. The reporting letter doesn't contain the necessary information found in a log book.

Further, by petitioner's own admission, the fax of the reporting letter to the client was sent at 11:53 a.m. on September 15, 2005, but the Express Mail package containing the application was purportedly hand-carried to the USPS and handed to an USPS employee at about 7:00 p.m. on September 15, 2005, as declared in the affidvits of Ms. Henderson and Mr. Meede. Clearly a communication sent prior to the actual filing hour cannot be considered as evidence which came into being **after** deposit and within one business day thereof.

CONCLUSION

The petition is **DENIED**. This decision may be viewed as a final agency action with in the meaning of 5 U.S.C. 704 and for purposes of seeking judicial review. See MPEP §1002.02(b).

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Charles A. Pearson
Director
Office of Petitions

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CLEVELAND OH 44114-3108

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OFFICE OF PETITIONS

In re Application of
Goodwin et al.
Application No. 11/229,144
Filed: September 16, 2005
Attorney Docket No. 36872US1
Title: Filter Devices Including a Porous Body

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed February 8, 2006 (certificate of mailing February 6, 2006), 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 September 16, 2005, without an executed oath or declaration. Accordingly, on October 5, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of December 5, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make timely a two month extension of time was obtained.

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 (2) and (4).

As to items (2) and (4), the declaration submitted does not comply with 37 CFR 1.64(b) and 1.42. Even if the legal representative has refused to execute the application papers, the signature block of the legal representative must be provided on the declaration. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative. The signing inventors are signing on behalf of the deceased inventor's legal representative. 37 CFR 1.47 applies where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(c) and (e)).

On renewed petition, a newly executed declaration which includes a signature block for the non-signing legal representative should be provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
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CLEVELAND OH 44114-3108

In re Application of Timothy Goodwin, Christopher Yahnker, Robert Swindell, Schaller Bret, Arthur Bromley Application No. 11/229,144 Filed: September 16, 2005 Attorney Docket Number: 36872US1 Title of Invention: Filter Devices Including A Porous Body	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 2, 2006.

The petition is GRANTED.

Petitioner has shown the non-signing legal representative of deceased inventor Bromley has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to legal representative last known address. The legal representative's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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Shirley A. Bromley
15432 S.E. 103rd Road
Ocklawaha, Florida 32179

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OFFICE OF PETITIONS

In re Application of
Timothy Goodwin, Christopher Yahnker, Robert Swindell, Schaller Bret, Arthur Bromley
Application No. 11/229,144
Filed: September 16, 2005
Attorney Docket Number: 36872US1
Title of Invention: Filter Devices Including A Porous Body

: LETTER

Dear Ms. Bromley:

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

PEARNE & GORDON LLP
1801 EAST 9TH STREET
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ATTN: STEPHEN S. WENTSLER

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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Storer et al. :
Application No. 11/229,150 :
Filed: September 16, 2005 :
Atty Docket No. 11874-019-999 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed November 20, 2008. Applicant requests that the determination of patent term adjustment be increased by 13 days to a total of three hundred fifty-seven (357) 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). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 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.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on September 29, 2008.

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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
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ALEXANDRIA VA 22314

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DEC 29 2008
OFFICE OF PETITIONS

In re Application of	:	
Richard Storer, et al.	:	
Application No. 11/229,150	:	DECISION GRANTING PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11874-019-999	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 22, 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 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

/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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Idenix Pharamaceuticals, Inc.
One Kendall Sq., Bldg 1400
Cambridge, MA 02139

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MAR 11 2010

In re Patent No. 7,534,809	:
Storer et al.	: DECISION UPON REMAND AND
Issue Date: May 19, 2009	: RECONSIDERATION OF
Application No. 11/229,150	: PATENT TERM ADJUSTMENT
Filed: September 16, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 11874-019-999	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Phospho-Indoles as HIV inhibitors	:

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 three hundred fifty-seven (357) 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 three hundred fifty-seven (357) 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 : 7,534,809 B2

DATED : **May 19, 2009** **DRAFT**

INVENTOR(S) : Storer 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 344 days

Delete the phrase "by 344 days" and insert – by 357 days--

Day : Wednesday

PALM INTRANET

Date: 3/10/2010
Time: 15:06:15

PTA Calculations for Application: 11/229150			
Application Filing Date:	09/16/2005	PTO Delay (PTO):	344
Issue Date of Patent:	05/19/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	357
PTO Delay Adjustment:	13		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
131	03/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	13		
122.5	04/29/2009	PTA 36 MONTHS			
122	05/19/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
121	03/09/2009	WORKFLOW - QUERY REQUEST - FINISH			
120	03/03/2009	TC RETURN TO PUBS			
119	02/20/2009	PUBS CASE REMAND TO TC			
117	02/09/2009	EXPORT TO FINAL DATA CAPTURE			
116	02/03/2009	EXPORT TO INITIAL DATA CAPTURE			
115	02/06/2009	DISPATCH TO FDC			
114	02/06/2009	TC RETURN TO PUBS			
113	02/02/2009	RESPONSE TO REASONS FOR ALLOWANCE			
112	02/02/2009	ISSUE FEE PAYMENT VERIFIED			
109	02/02/2009	ISSUE FEE PAYMENT RECEIVED			
107	01/28/2009	MAIL NOTICE OF ALLOWANCE			
106	01/26/2009	ISSUE REVISION COMPLETED			
105	01/26/2009	DOCUMENT VERIFICATION			
104	01/26/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
103	01/26/2009	EXAMINER'S AMENDMENT COMMUNICATION			
102	01/26/2009	NOTICE OF ALLOWABILITY			
101	01/14/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
99	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
98	01/15/2009	DATE FORWARDED TO EXAMINER			
97	12/22/2008	AMENDMENT SUBMITTED/ENTERED WITH			

		FILING OF CPA/RCE			
96	01/15/2009	DATE FORWARDED TO EXAMINER			
95	12/22/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
94	01/15/2009	DISPOSAL FOR A RCE / CPA / R129			
89	12/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
88	12/29/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
87	12/29/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
86	12/22/2008	EXPORT TO FINAL DATA CAPTURE			
85	12/22/2008	PETITION ENTERED			
84	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	12/22/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
82	12/19/2008	DISPATCH TO FDC			
81	12/17/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
80	12/18/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
79	12/17/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
78	10/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	10/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
76	12/16/2008	PUBS CASE REMAND TO TC			
75	12/11/2008	MAIL-PETITION DECISION - DISMISSED			
74	12/11/2008	PETITION DECISION - DISMISSED			
73	11/20/2008	PETITION ENTERED			
72	11/20/2008	ISSUE FEE PAYMENT VERIFIED			
71	11/20/2008	ISSUE FEE PAYMENT RECEIVED			
70	10/27/2008	EXPORT TO INITIAL DATA CAPTURE			
69	10/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	10/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	10/24/2008	MAIL NOTICE OF ALLOWANCE			
66	10/16/2008	ISSUE REVISION COMPLETED			

65	10/16/2008	DOCUMENT VERIFICATION			
64	10/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	10/10/2008	NOTICE OF ALLOWABILITY			
62	09/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	10/09/2008	DATE FORWARDED TO EXAMINER			
60	09/29/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
59	10/09/2008	DISPOSAL FOR A RCE / CPA / R129			
58	09/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	09/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	07/29/2008	RESPONSE TO REASONS FOR ALLOWANCE			
55	09/29/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
54	09/11/2008	FINISHED INITIAL DATA CAPTURE			
53	07/07/2008	EXPORT TO INITIAL DATA CAPTURE			
52	07/03/2008	MAIL EXAMINER'S AMENDMENT			
51	07/03/2008	MAIL EXAMINER'S AMENDMENT			
50	07/03/2008	MAIL NOTICE OF ALLOWANCE			
49	07/02/2008	ISSUE REVISION COMPLETED			
48	07/02/2008	DOCUMENT VERIFICATION			
47	07/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	07/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
45	07/02/2008	EXAMINER'S AMENDMENT COMMUNICATION			
44	06/25/2008	EXAMINER'S AMENDMENT COMMUNICATION			
43	06/25/2008	NOTICE OF ALLOWABILITY			
42	06/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	04/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	04/11/2008	REFERENCE CAPTURE ON IDS			
37	04/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	35
36	05/14/2008	DATE FORWARDED TO EXAMINER			
35	04/11/2008	RESPONSE AFTER NON-FINAL ACTION			
34	04/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

33	01/30/2008	MAIL NON-FINAL REJECTION			
32	01/28/2008	NON-FINAL REJECTION			
31	11/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	01/28/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
29	01/22/2008	CORRESPONDENCE ADDRESS CHANGE			
28	11/26/2007	REFERENCE CAPTURE ON IDS			
27	11/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
26	12/11/2007	DATE FORWARDED TO EXAMINER			
25	11/26/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
24	11/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	10/26/2007	MAIL RESTRICTION REQUIREMENT	344		-1
22	10/25/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	09/11/2007	PRELIMINARY AMENDMENT			
20	06/21/2006	CORRESPONDENCE ADDRESS CHANGE			
19	10/17/2005	PRELIMINARY AMENDMENT			
18	03/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	03/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	01/12/2006	CORRESPONDENCE ADDRESS CHANGE			
15	12/23/2005	APPLICATION RETURN FROM OIPE			
14	12/27/2005	APPLICATION IS NOW COMPLETE			
13	12/23/2005	APPLICATION RETURN TO OIPE			
12	12/23/2005	APPLICATION DISPATCHED FROM OIPE			
11	12/23/2005	APPLICATION IS NOW COMPLETE			
10	12/16/2005	ADDITIONAL APPLICATION FILING FEES			
9	12/16/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	10/18/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	10/13/2005	CLEARED BY L&R (LARS)			
4	09/30/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/30/2005	CASE CLASSIFIED BY OIPE			
2	09/26/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/16/2005	INITIAL EXAM TEAM NN			

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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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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Martin Schrepp	: DECISION ON REQUEST FOR
Patent Number	: 7610303	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,151	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **481** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AT&T CORP.
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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FEB 21 2007

OFFICE OF PETITIONS

In re Application of :
Nicholas Duffield et al :
Application No. 11/229,156 :
Filed: September 16, 2005 :
Attorney Docket No. 2004-0509 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 11, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 12, 2005.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038

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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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OFFICE OF PETITIONS

In re Application of
Thomas Tahan
Application No. 11/229,189
Filed: September 15, 2005
Attorney Docket No. **SUNMP653**

: DECISION GRANTING PETITION

This is a decision on the petition, filed February 18, 2009, under 37 CFR 1.137(b) and 37 CFR 1.137(f), to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on November 17, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is June 11, 2009 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1620.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2435 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/229,189	09/15/2005	Thomas Tahan	SUNMP653

CONFIRMATION NO. 2276

32291
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

NONPUBLICATION RESCISSION LETTER

OC000000034793154

Date Mailed: 03/02/2009

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 06/11/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/pffaison ball/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 05/11/2010

Applicant	: Seigo Kano	: DECISION ON REQUEST FOR
Patent Number	: 7621359	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/229,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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Howard J. Greenwald P.C.
349 W. Commercial Street
Suite 2490
East Rochester, NY 14445-2408

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OFFICE OF PETITIONS

In re Application of	:	
DiLiberto	:	
Application No. 11/229,217	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 22048824-2	:	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 July 18, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that a subsequent petition under 37 C.F.R. § 1.36 to withdraw the previously filed petition to withdraw as attorney was filed July 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 above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucca
Petitions Examiner
Office of Petitions

cc: Samuel L. DiLiberto, Jr.
TSS Foam Industries Corporation
2770 West Main Road
P.O. Box 119
Caledonia, NY 14423

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11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of
Kim, et al.
Application No. 11/229,226
Filed: September 16, 2005
Docket No.: 3220-78626

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 25, 2008, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See*, 37 CFR 1.181(f).

The application became abandoned July 14, 2007 for failure to timely submit a properly reply to the Office communication mailed June 13, 2007. The Office communication set a one month shortened statutory period of time for reply. No petition for extension of time was received. This decision precedes Notice of Abandonment.

Petitioners assert non-receipt of the Office communication. Petitioners state that a search of the docket records and file jacket indicated that the Notice of Non-Compliant Amendment dated June 13, 2007 was not received. Petitioners have included a copy of the docket report where the non-received Notice of Non-Compliant Amendment would have been entered had it been received and docketed. The docket shows all replies docketed for five months from the date of June 13, 2007 mail date of the non-received Notice of Non-Compliant Amendment.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

The petition and accompanying documentary evidence have been carefully considered, but do not satisfy the requirements set forth above and set forth at MPEP 711.03(c). Any renewed petition must establish non-receipt of the Office communication in accordance with the requirements set forth at MPEP 711.03(c).

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was

"unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JUN 20 2008

In re Application of :
Kim, et al. :
Application No. 11/229,226 : DECISION ON PETITION
Filed: September 16, 2005 :
Docket No.: 3220-78626 :

This is a decision on the renewed petition under 37 CFR 1.181, filed May 23, 2008, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned July 14, 2007 for failure to timely submit a properly reply to the Office communication mailed June 13, 2007. The Office communication set a one month shortened statutory period of time for reply. No petition for extension of time was received. Notice of Abandonment was mailed April 30, 2008.

Petitioners continue to assert non-receipt of the Office communication and have provided documentary evidence and statements in support of the contention of non-receipt.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

The arguments presented have been carefully considered. The evidence submitted establishes that the Office communication was not received.

In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 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

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/229,226 : DECISION ON PETITION
Filed: September 16, 2005 :
Docket No.: 3220-78626 :

This is a decision on the renewed petition under 37 CFR 1.181, filed May 23, 2008, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned July 14, 2007 for failure to timely submit a properly reply to the Office communication mailed June 13, 2007. The Office communication set a one month shortened statutory period of time for reply. No petition for extension of time was received. Notice of Abandonment was mailed April 30, 2008.

Petitioners continue to assert non-receipt of the Office communication and have provided documentary evidence and statements in support of the contention of non-receipt.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

The arguments presented have been carefully considered. The evidence submitted establishes that the Office communication was not received.

In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 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

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LAW OFFICE OF JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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OFFICE OF PETITIONS

In re Application of	:	
Marco Paniconi, et al.	:	
Application No. 11/229,230	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 50V8174	:	FROM RECORD
	:	

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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Law Office of Jeffrey Sam Smith has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHERYL SUE HOLLOWAY
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS MN 55402

In re Application of Donald A. Kleinsek et al. Application No. 11/229,237 Filed: September 16, 2005 Attorney Docket No. 3282.01US01	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 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 request was signed by Curtis B. Herbert on behalf of all attorneys of record who are associated with Customer Number 62274.

All attorneys/agents associated with the Customer No. 62274 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 Dask Technologies, LLC at the address indicated in the request.

There is an outstanding Office action mailed May 13, 2009, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Dask Technologies, LLC
5582 Bantry Lane
Fitchburg, WI 53711

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/229,237	09/16/2005	Donald A. Kleinsek	3282.01US01

CONFIRMATION NO. 2082

POWER OF ATTORNEY NOTICE

62274
DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS, MN 55402

OC000000036442024

Date Mailed: 06/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/06/2009.

- 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.

/sltucker smith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

In re Application of
Quinn Jacobson and Parulkat Ishwardutt
Application No.11/229,247
Filed: March 30, 2005
Attorney Docket No. SUN04-0805
Title of Invention: Centralized Bist Engine for Testing On-chip Memory Structures

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed September 16, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Jacobson has refused to join in the filing of the above-identified application. Petitioner has provided evidence of refusal of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 50-1003 will be charged the $200.00 petition fee.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Quinn Jacobson
598 Sunnymount Avenue
Sunnyvale, CA 94087

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OFFICE OF PETITIONS

In re Application of
Quinn Jacobson and Parulkat Ishwardutt
Application No.11/229,247
Filed: March 30, 2005
Attorney Docket No. SUN04-0805
Title of Invention: Centralized Bist Engine for Testing On-chip Memory Structures

LETTER

Dear Mr. Jacobson:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, attorney or agent (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
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JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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OFFICE OF PETITIONS

In re Application of	:	
Paniconi et al.	:	DECISION ON PETITION
Application No. 11/229,284	:	TO WITHDRAW
Filed: September 16, 2005	:	FROM RECORD
Attorney Docket No. 50U6045	:	

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 16, 2006.

The request is **NOT APPROVED**.

The Request wishes to withdraw all attorneys/agents associated with Customer Number 48838. However, since the practitioner(s) in the above identified application were appointed by naming each practitioner individually, the request under 37 C.F.R. § 1.36(b) cannot be accepted at this time. Since the Oath/Declaration appointed each practitioner individually, those practitioners cannot request to be withdrawn via Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

Telephone inquires concerning this decision should be directed to Alicia Kelley at 571-272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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LAW OFFICE OF JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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In re Application of	:	
Paniconi et al.	:	DECISION ON PETITION
Application No. 11/229,285	:	TO WITHDRAW
Filed: September 16, 2005	:	FROM RECORD
Attorney Docket No. 50U6053	:	

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 16, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with the Law Office of Jeffrey S. Smith, has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Marco Paniconi	: DECISION ON REQUEST FOR
Patent Number	: 7596243	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,285	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **959** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

LAW OFFICE OF JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

In re Application of	:	
Paniconi et al.	:	DECISION ON PETITION
Application No. 11/229,286	:	TO WITHDRAW
Filed: September 16, 2005	:	FROM RECORD
Attorney Docket No. 80398.P669	:	

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 16, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with the Law Office of Jeffrey S. Smith, has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: SHERYL SUE HOLLOWAY
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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OFFICE OF PETITIONS

In re Application of	:	
Baber et al.	:	
Application No. 11/229,296	:	ON APPLICATION FOR
Filed: September 16, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 035568-0158	:	
(R312077)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed November 18, 2008. Applicant requests that the determination of patent term adjustment be increased by one hundred sixty-eight (168) days to seven hundred forty-two (742) days, if the patent issues on Tuesday, March 3, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 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 Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,547,167	:	
Baber et al.	:	DECISION DISMISSING
Application No. 11/229,296	:	REQUEST FOR
Issue Date: June 16, 2009	:	RECONSIDERATION OF
Filed: September 16, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
035568-0158 (R312077)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed on August 14, 2009. Patentees request that the determination of patent term adjustment be corrected from six hundred sixty-four (664) days to eight hundred forty-seven (847) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 664 days.

BACKGROUND

On June 16, 2009, the application matured into U.S. Patent No. 7,547,167, with a revised patent term adjustment of 664 days. The Office determined that 273 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 664 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4). No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. On November 18, 2008, an application for patent term adjustment under 37 CFR 1.705(b) was also filed. On May 14, 2009, the application under 37 CFR 1.705(b) was held in abeyance pending issuance of the patent. Given the applicant

delay of 0 days, the patent issued with a revised patent term adjustment of 664 (574 + 90) days.

On August 14, 2009, patentees timely submitted this request for reconsideration of patent term adjustment asserting that the correct number of days of Patent Term Adjustment is 847 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert 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".

Accordingly, patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 847 (574 + 273) days as these periods do not occur on the same day. Patentee asserts that the 90 day period of Office delay accorded pursuant to 37 CFR 1.702(a)(4) for issuance of the patent on June 16, 2009, four (4) months and 90 days after the payment of the issue fee on November 18, 2008, overlaps with the Three Year Delay period under 37 CFR 1.702(b). Further, given the applicant delay of 0 days, patentees assert entitlement to 574 (664 + 273 - 90 overlap) days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), September 16, 2005, and ending on the date the application issued as a patent, June 16, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4), 574 days of patent term adjustment were entered for the mailing of the first Office action on June 12, 2008, fourteen months and 574 days after the date the application was filed. Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(4), 90 days of Office delay were entered for the issuance of the patent on June 16, 2009, four months and 90 days after the payment of the issue fee. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 273 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 273 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 664 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(4). Entry of both periods is neither permitted nor warranted. 664 days is the actual number of days at issuance the patent was delayed, including the 90 days of Office delay pursuant to 37 CFR 1.702(a)(4).

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment, pursuant to 37 CFR 1.702(b).

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 664 days.

The Office acknowledges submission of the $200.00 fee filed with the original application under 37 CFR 1.705(b). No additional fees are required. The $200.00 fee submitted with the subject application will be refunded to counsel.

Telephone inquiries specific to this matter should be directed to Attorney Douglas I. Wood, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

Mail Date: 04/21/2010

Applicant	: Brad M. Baber	: DECISION ON REQUEST FOR
Patent Number	: 7547167	: RECALCULATION of PATENT
Issue Date	: 06/16/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Gerhard Kastenhofer	: DECISION ON REQUEST FOR
Patent Number	: 7635347	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **835** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/21/2010

Applicant	: Eitan Cadouri	: DECISION ON REQUEST FOR
Patent Number	: 7617465	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,324	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **737** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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OFFICE OF PETITIONS

In re Application of	:	
Sandra Johns	:	
Application No. 11/229,334	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 054821-8024	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 12, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice to File Missing Parts mailed November 10, 2005. This Notice set an extendable period for reply of two (2) months. No response having been received, the application became abandoned on January 11, 2006. A Notice of Abandonment was mailed on July 17, 2006.

It is obvious from reviewing the file that the Notice to File Missing Parts was mailed to the incorrect address. Rather than be mailed to the address associated with customer number 26371, the Notice was mailed to the address associated with customer number 26331.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to the Office of Initial Patent Examination for re-mailing of the Notice to File Missing Parts, setting a new period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Dascenzo Intellectual Property Law, P.C.
522 SW 5th Ave
Suite 925
Portland, OR 97204-2126

Mail Date: 04/21/2010

Applicant	: David J. Edlund	: DECISION ON REQUEST FOR
Patent Number	: 7659019	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: 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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MICHAEL L. GOLDMAN
NIXON PEABODY, LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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OFFICE OF PETITIONS

In re Application of	:	
Francis Barany, et al.	:	
Application No. 11/229,366	:	DECISION GRANTING PETITION
Filed: September 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19603/4741	:	

This is a decision on the petition under 37 CFR 1.313(c) (2), filed April 25, 2008 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c) (2).

Petitioner is advised that the issue fee paid on March 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April Wise
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11229366

Total Records Found: 18

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/28/2008	00002806	4	1464	$130.00	04/25/2008	DA 141138
04/28/2008	00002807	4	1801	$810.00	04/25/2008	DA 141138
04/28/2008	00002808	4	1806	$180.00	04/25/2008	DA 141138
04/25/2008	00007857	3	8011	$55.00	04/25/2008	CC
03/10/2008	00015604	4	1501	$1,440.00	03/10/2008	DA 141138
03/10/2008	00015607	4	1504	$300.00	03/10/2008	DA 141138
10/30/2007	00027296	4	1801	$810.00	10/30/2007	DA 141138
07/23/2007	00003644	4	1814	$130.00	07/20/2007	DA 141138
07/23/2007	00003645	4	1253	$1,020.00	07/20/2007	DA 141138
10/04/2005	00000003	12	9999	$750.00	10/04/2005	CK
10/04/2005	00000006	1	2081	$125.00	09/16/2005	CK
10/04/2005	00000007	4	9204	-$625.00	09/16/2005	CK
10/04/2005	00000005	12	9999	-$750.00	10/04/2005	CK
10/04/2005	00000002	4	9204	$750.00	09/16/2005	CK
09/22/2005	00000026	4	9204	-$750.00	09/16/2005	CK
09/22/2005	00000023	1	2011	$150.00	09/16/2005	CK
09/22/2005	00000024	1	2111	$250.00	09/16/2005	CK
09/22/2005	00000025	1	2311	$100.00	09/16/2005	CK

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February 11, 2009

Steven J. Hultquist
Intellectual Property/Technology Law
P. O. Box 14329
Research Triangle Park, NC 27709

Patent No.: 7,470,770 B2
Application No.: 11/229,368
Inventor(s): Sang Yup Lee, et al.
Issued: December 30, 2008
Title: **GENE ENCODING MALIC ENZYME AND METHOD FOR PREPARING SUCCINIC ACID USING THE SAME**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Respecting the alleged error in the References Cited, the patent is printed in accordance with the record, since the references was not in conformance and not considered. Therefore, no correction is in order here under 1.322 or 1.323. The examiner drew a line through the cited reference.

In view of the foregoing, your request, in this mater, is hereby denied.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

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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	: Adam Albrett	: DECISION ON REQUEST FOR
Patent Number	: 7610011	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,383	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Mikko MAKELA	:	
Application No. 11/229,384	:	DECISION ON PETITION
Filed: September 15, 2005	:	
Attorney Docket No. 042933/379349	:	

This is a decision on the petition, filed May 26, 2009, which is being treated as a petition under 37 CFR 1.8(b) (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 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 December 20, 2008.

Petitioner asserts that a proper response to the Office action dated September 19, 2008 was mailed to the office in a timely manner. Petitioner has provided the Office with a copy of the post card receipt dated January 23, 2009, with a Certificate of Mailing dated January 20, 2009.

A review of the Office records indicates that a response was filed January 23, 2009, with a Certificate of Mailing dated January 20, 2009 with the application serial number 11/299,384. In processing by the Office the response was initially placed in 11/299,384. However a subsequent review of the identifiers by the Office indicates that the correct serial number should have been 11/229,384. The Office moved the response of January 23, 2009 from 11/299,384 to 11/229,384 and the RCE and extension of times will be entered. Since the Office has discovered the mistake by applicant in the papers filed, the petition will therefore be granted.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to the Technology Center Art Unit 2173 for the appropriate action on the RCE.

Thurman K. Page
Petitions Examiner
Office of Petitions

PTO/SB/30 (12-08)
Approved for use through 01/31/2009. 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 contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

IAP22 MAY 26 2009 PATENT & TRADEMARK OFFICE

Application Number	~~11/299,384~~ 11/229,384
Filing Date	September 15, 2005
First Named Inventor	MAKELA
Art Unit	2173
Examiner Name	Namitha Pillai
Attorney Docket Number	915-005.184

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
   - a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
     - i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
     - ii. ☐ Other _____
   - b. ☑ Enclosed
     - i. ☑ Amendment/Reply
     - ii. ☐ Affidavit(s)/ Declaration(s)
     - iii. ☐ Information Disclosure Statement (IDS)
     - iv. ☐ Other _____
2. Miscellaneous
   - a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
   - b. ☐ Other _____
3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
   - a. ☑ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 23-0442.
     - i. ☑ RCE fee required under 37 CFR 1.17(e)
     - ii. ☑ Extension of time fee (37 CFR 1.136 and 1.17)
     - iii. ☐ Other _____
   - b. ☑ Check in the amount of $ 940.00 enclosed
   - c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	Francis J. Maguire	Date	January 20, 2009
Name (Print/Type)	Francis J. Maguire	Registration No.	31,391

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature	Lorraine Kniffin		
Name (Print/Type)	Lorraine F. Kniffin	Date	January 20, 2009

This collection of information is required by 37 CFR 1.114. 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: **Mail Stop RCE, 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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JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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OFFICE OF PETITIONS

In re Application of	:	
MIAO, et al.	:	
Application No. 11/229,387	:	DECISION ON PETITION
Filed: September 16, 2005	:	TO WITHDRAW
Attorney Docket No. 80398.P676	:	FROM RECORD
	:	

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 16, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to JEFFREY SAM SMITH has been revoked by the assignee of the patent application on August 01, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the first copied address below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Sheryl Sue Holloway
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025

cc: Sony Corporation of America
Intellectual Property Department
3300 Zanker Road, MD-SJ1F2
San Jose, CA 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/229,387	09/16/2005	Zhourong Miao	50U7059

CONFIRMATION NO. 1338

OC000000021149442

48838
JEFFREY SAM SMITH
51 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

Date Mailed: 11/07/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Glenn C. Calhoun	: DECISION ON REQUEST FOR
Patent Number	: 7619033	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,413	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PRINCETON NJ 08540

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OFFICE OF PETITIONS

In re Application of	:	
Janus Krarup	:	
Application No. 12/229,428	:	DECISION GRANTING PETITION
Filed: September 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6624.204-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 12, 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 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

---

[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.*

Copied from 12229428 on 12/22/2009

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11229428

Total Records Found: 15

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
12/15/2009	00000034	4	1808	-$130.00	12/10/2009	DA 141447
12/11/2009	00007683	4	1808	$130.00	12/10/2009	DA 141447
12/11/2009	00007682	4	1801	$810.00	12/10/2009	DA 141447
11/25/2009	00017151	4	1051	$130.00	11/25/2009	DA 141447
11/25/2009	00017152	4	1501	$1,510.00	11/25/2009	DA 141447
11/25/2009	00017150	4	1504	$300.00	11/25/2009	DA 141447
07/24/2009	00012413	4	1801	$810.00	07/24/2009	DA 141447
06/26/2009	00001752	4	8021	$40.00	06/25/2009	DA 141447
04/01/2009	00012131	4	1253	$1,110.00	04/01/2009	DA 141447
08/25/2008	00010141	4	1254	$1,640.00	08/25/2008	DA 141447
11/23/2005	00000057	1	1051	$130.00	11/22/2005	DA 141447
09/21/2005	00000341	1	1202	$700.00	09/15/2005	DA 141447
09/21/2005	00000340	1	1311	$200.00	09/15/2005	DA 141447
09/21/2005	00000339	1	1111	$500.00	09/15/2005	DA 141447
09/21/2005	00000338	1	1011	$300.00	09/15/2005	DA 141447

Adjustment date: 12/15/2009 LDIEP1
12/11/2009 INTEFSW 00004565 141447 11229428
02 FC:1808 130.00 CR

12/15/2009 LDIEP1 00000013 141447 11229428
01 FC:1464 130.00 DA

Copied from 11229428 on 12/23/2009

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LANGLEY RESEARCH CENTER
MAIL STOP 141
HAMPTON VA 23681-2199

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JUL 0 6 2006
OFFICE OF PETITIONS

In re Application of Woodard et al. Application No. 11/229,438 Filed: September 12, 2005 Attorney Docket No. LAR-17155-1	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 23, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Stanley E. WOODARD
2. Bryant D. TAYLOR

Petitioner submitted $130.00 for payment of the petition fee, which was charged twice, totaling $260.00. However, the petition fee is $400.00. Accordingly, an additional $140.00 will be charged to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 2800 to await examination.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3282. All other inquiries should be directed to the Technology Center.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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Mark O. Glut
47123 Buse Rd, B2272/S257
Patuxent River MD 20670

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AUG 01 2008

In re Application of	:	
Brett J. Hamilton	:	
Application No. 11/229,443	:	DECISION ON PETITION
Filed: September 7, 2005	:	TO WITHDRAW
Attorney Docket No. NC 97332	:	FROM RECORD
	:	

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 11, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Christopher A. Monsey**
Crane Naval Systems Warfare Center
Building 2, Code 00L 300 Highway 361
Crane, Indiana 47522

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

BERKELEY LAW & TECHNOLOGY GROUP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re :
Christophe Boulanger, Laurent Ouvry:
Bernard Piaget and Charles Fort : DECISION REFUSING STATUS
Reissue Application No. 11/229,448 : UNDER 37 CFR 1.47(a)
Received: September 16, 2005 :
Title: METHOD OF RECEIVING CDMA :
SIGNALS WITH PARALLEL INTERFERENCE :
SUPPRESION, AND CORRESPONDING STAGE:
AND RECEIVER :
Attorney Docket No. 012.P35001RE :

This is in response to the "PETITION UNDER 37 CFR § 1.47 FOR NON-SIGNING INVENTOR," filed May 11, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §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 C.F.R. § 1.136(a).

The above-identified reissue application of patent No. 6,621,856 (Issued September 16, 2003) was filed on September 16, 2005, with an unexecuted reissue declaration. Accordingly, on October 11, 2005, the Office mailed a NOTICE TO FILE MISSING PARTS OF REISSUE APPLICATION requiring an executed oath or declaration and late surcharge. In addition, the Notice required applicants to submit the written consent of assignee and assignee statement

under 37 CFR 3.73(b). The Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition requesting the acceptance of a reissue declaration without the signature of joint inventor Charles Fort, a written consent of assignee and a statement under 37 CFR 3.73(b). In make this response timely, the fee for extension of time within the fifth month has been charged to petitioner's Deposit Account, as authorized.

37 CFR § 1.172 requires that a reissue declaration be made by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged.

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 requirements:

(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[1] (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.

(B) The application must be accompanied by proof that the nonsigning inventor

(1) cannot be found or reached after diligent effort

(2) refuses to execute the application papers. See MPEP § 409.03(d).

---

[1] However, the question of the sufficiency of the reissue oath/declaration filed under 37 CFR 1.175 must in each case be reviewed and decided personally by the primary examiner.

(C) The last known address of the nonsigning joint inventor must be stated. See MPEP § 409.03(e).

Preliminarily, petitioner is advised that the written consent of assignee form received is not acceptable. The form submitted does not identify the assignee. The space on the form where the name of the assignee should be entered has been left blank. Submission of a properly completed written consent of assignee is required.

More importantly, the instant petition does not meet the requirements of § 1.47(a). The petition includes the last known address of the non-signing inventor and payment of the petition fee. However, petitioner has not submitted a reissue declaration executed by all available joint inventors on behalf of inventor Fort. The declarations submitted do not identify inventor Fort as an inventor. In order for the declarations to be considered signed on behalf of inventor Fort and in order for the declarations to be in compliance with 1.63 and 1.175, they must identify all of the actual inventors, including non-signing inventor Fort (including his residence/mailing address and citizenship). A reissue declaration in compliance with 1.47 is required.

In addition, the petition does not include adequate proof of the unavailability of inventor to join in the reissue application. 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. See MPEP 409.03(d). In this instance, it appears appropriate to receive such a statement of facts from the agent in communication with the assignee (See pg. 2, para 1 of petition; pg. 2, paras. 3-5 of affidavit of Steven Munson). A statement of facts from the person who presented inventor Fort with the reissue declaration 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

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Paper No.

BERKELEY LAW & TECHNOLOGY GROUP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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MAR 22 2007

OFFICE OF PETITIONS

In re Christophe Boulanger, Laurent Ouvry: Bernard Piaget and Charles Fort Reissue Application No. 11/229,448 Received: September 16, 2005 Title: METHOD OF RECEIVING CDMA SIGNALS WITH PARALLEL INTERFERENCE SUPPRESION, AND CORRESPONDING STAGE: AND RECEIVER Attorney Docket No. 012.P35001RE	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 C.F.R. § 1.47 MOOT

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed December 13, 2006.

The petition is **DISMISSED AS MOOT**.

The above-identified reissue application of patent No. 6,621,856 (Issued September 16, 2003) was filed on September 16, 2005, with an unexecuted reissue declaration. Accordingly, on October 11, 2005, the Office mailed a NOTICE TO FILE MISSING PARTS OF REISSUE APPLICATION requiring an executed oath or declaration and late surcharge. In addition, the Notice required applicants to submit the written consent of assignee and assignee statement under 37 CFR 3.73(b). The Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

By decision mailed October 13, 2006, the initial petition filed May 11, 2006 was dismissed.

On instant renewed petition, applicants submitted a reissue declaration signed by previously non-signing joint inventor Fort.

The declaration has been reviewed and found in compliance with 37 CFR 1.63 and 1.172[1].

In view of the joinder of the inventor, further consideration under 37 CFR 1.47 is not necessary and the petition is considered moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47.

This application will be examined in due course.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] Notwithstanding this decision, the question of the sufficiency of the reissue oath/declaration filed under 37 CFR 1.175 must in each case be reviewed and decided personally by the primary examiner.

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GEAM – 08CU – ULTEM
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

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JUN 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Ashish Aneja et al	:	
Application No. 11/229,455	:	ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. US 137181-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 17, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 18, 2005.

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 $1590 extension of time submitted with the petition on December 13, 2006 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 the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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PITTSFIELD MA 01201-3697

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MAY 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Aneja et al.	:	
Application No. 11/229,455	:	DECISION ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. US 137181-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 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 August 25, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 26, 2009. A Notice of Abandonment was mailed April 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 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.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 1796 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

cc: Patricia S. DeSimone
20 Church Street, 22nd Floor
Hartford, CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

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AUG 1 8 2008
OFFICE OF PETITIONS

In re Application of :
Harold G. Walters et al :
Application No. 11/229,461 : DECISION GRANTING PETITION
Filed: September 16, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2004-IP-014518U1 :

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).

For future reference petitioner is encouraged to note 37 CFR 1.4(c), where a separate paper should be filed for each distinct subject matter.

Petitioner is advised that the issue fee paid on July 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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 IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Mark G. Bocchetti
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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JAN 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Hawkins, et al. :
Application No. 11/229,467 :
Filed: September 16, 2005 :
Attorney Docket No. 8874WRZ :

DECISION GRANTING PETITION

This is a decision on the petition filed November 9, 2005, requesting that the above-identified application be accorded a filing date of September 16, 2005, with thirty-five sheets of drawings as part of the original disclosure.

The petition is **granted**.

On September 16, 2005, the above-identified application was filed. On October 7, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because drawings were not found with the original application papers, but were believed to be required in order to accord the application a filing date. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on November 19, 2005, applicants filed the present petition, a copy of the thirty-five sheets of drawings, and a postcard receipt date-stamped by the Office acknowledging having received thirty-five sheets of drawings on September 16, 2005, among other items.

Upon review of the record, the drawings were not located among the application papers. The evidence is convincing that the application papers deposited September 16, 2005, included thirty-five sheets of drawings. Therefore, the application, including the thirty-five sheets of drawings was complete on filing and entitled a filing date of September 16, 2005.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 16, 2005 using the thirty-five sheets of drawings filed September 16, 2005.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 04/21/2010

Applicant	: Michael D. Gallagher	: DECISION ON REQUEST FOR
Patent Number	: 7634270	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,470	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **215** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 05/18/2010

Applicant	: Michael D. Gallagher	: NOTICE CONCERNING IMPROPER
Patent Number	: 7634270	: CALCULATION OF PATENT TERM
Issue Date	: 12/15/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 11/229,470	: IMPROPERLY MEASURING REDUCTION
Filed	: 09/15/2005	: 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 **251** 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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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 04/21/2010

Applicant	: Michael D. Gallagher	: DECISION ON REQUEST FOR
Patent Number	: 7634271	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,471	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: 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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United States Patent and Trademark Office
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Mrinal K. Das	: DECISION ON REQUEST FOR
Patent Number	: 7572741	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/229,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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SEP 20 2006

OFFICE OF PETITIONS

In re Application of :
Landry et al. :
Application No. 11/229,486 :
Filed: September 15, 2005 : ON PETITION
Attorney Docket Number: :
A2009-700110 :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), filed July 13, 2006.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." 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 reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed October 6, 2005. The Notice set a reply period of two (2) months, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned December 7, 2005. A Notice of Abandonment was mailed June 14, 2006.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on May 8, 2006 using the Certificate of Mailing procedures under 37 CFR 1.8. In support of this assertion, Applicant provides a copy of a Response to Notice.

A review of the Response reveals that it was filed with a Transmittal which included a Certificate of Mailing dated May 8, 2006, and executed by Lori A. Biancuzzo; however, no statement from Lori A. Biancuzzo, attesting to the mailing of the Response, has been included with the instant petition.

Applicable Law, Rules and MPEP

Thirty-seven CFR 1.8(b) provides

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

Analysis/Conclusion

Applicant has failed to comply with 37 CFR 1.8(b)(3). A statement from Lori A. Biancuzzo, which attests on a personal knowledge basis to the previous timely mailing or transmission, is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Landry et al.	:	
Application No. 11/229486	:	DECISION ON
Filing or 371(c) Date: 09/15/2005	:	PETITION
Attorney Docket Number: A2009-700110	:	

This is a decision in response to the Renewed Petition Under 37 CFR 1.181, filed October 20, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed October 6, 2005. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on December 7, 2005. A Notice of Abandonment was mailed June 14, 2006.

Applicant filed a petition to withdraw the holding of abandonment on July 13, 2006, asserting that a timely response to the Notice was filed. The petition was dismissed in a decision mailed September 20, 2006, for failing to comply with 37 CFR 1.8(b)(3), which requires a statement from a person with first hand knowledge of the previous mailing or transmission.

Applicant files the instant petition and includes a statement from Ms. Lori A. Biancuzzo, attesting to the mailing of a reply to the Notice on May 8, 2006, under the provisions of 37 CFR 1.8.

In view of the above, the petition is granted. The application will be referred to the Office of Initial patent Examination for processing of the response, and for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Nov-08

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 26 2008

In re Application of :
Kim et al. :
Application Number: 11/229499 : LETTER DISMISSING PETITION
Filing Date: 09/20/2005 :
Attorney Docket Number: :
1349.1510 :

This is a decision in reference to the paper entitled "PETITION BY JOINT INVENTOR(S) FILING ON BEHALF OF OTHER JOINT INVENTOR(S) WHO REFUSE(S) TO JOIN IN APPLICATION OR CANNOT BE REACHED," filed on July 25, 2008, which is treated as a petition, under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.

The petition is **dismissed** for the reasons stated below.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

On September 20, 2005, the application was filed. The application papers included an executed declaration listing Sang-deok Kim, Duck-hee Lee, and Seok-hoon Choi as joint inventors.

On July 25, 2008, the subject paper was filed, along with a declaration under 37 CFR 1.131 signed by joint inventors Lee and Choi.

The petition, which is signed by joint inventor Duck-hee Lee, cannot be considered on the merits because it is not properly signed. Specifically, 37 CFR 1.33(b) requires that papers filed in an 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.

A properly signed petition should be timely filed.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by all joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

Petitioners have provided a statement by Yeong-in Jin in which she states that she called non-signing inventor Kim by telephone and asked him to sign the Declaration Under 37 CFR 1.131, but that he refused to do so. The petition also states that a copy of the Declaration Under 37 CFR 1.131 was mailed to inventor Kim's last known address with a request for him to sign and return it, but he failed to do so.

It is not clear whether the person making the statement that the declaration under 37 CFR 1.131, has first-hand knowledge of the mailing of the declaration under 37 CFR 1.131. Petitioners should provide a statement of the mailing of the declaration to the last known address of the non-signing inventor by a person with first-hand knowledge, setting forth the facts as he or she knows them. Additionally, the Office is requesting a copy of the cover letter transmitting the Declaration Under 37 CFR 1.131 to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (the application, amendments, and declaration under 37 CFR 1.132) 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 Declaration Under 37 CFR 1.131 was sent or given to the inventor. If the inventor refuses 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.

If repeated efforts to locate the inventor(s) and obtain the declaration under 37 CFR 1.131 are unsuccessful, petitioners will have shown that the inventor(s) has refused to sign the declaration under 37 CFR 1.131.

Lastly, it is noted that the fee for a petition under 37 CFR 1.183 is $400.00. The balance due will be charged to counsel's deposit account as authorized on the Fee Transmittal filed on July 25, 2008.

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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAR 04 2009

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application Number: 11/229499 : DECISION ON PETITION
Filing Date: 09/20/2005 :
Attorney Docket Number: :
1349.1510 :

This is a decision on the renewed petition, filed on January 14, 2009, under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The petition is **GRANTED**.

Petitioners have shown, via the statement signed by Yeong-in Jin, filed on July 25, 2008, that Ms. Jin telephoned the inventor refusing to sign the declaration under 37 CFR 1.131, Sang-Deok Kim, but that Kim orally refused to sign the declaration. Additionally, Ms. Jin sent a copy of the declaration under 37 CFR 1.131 to inventor Kim's last known address, with a request for him to sign it, but inventor Kim failed to sign and return the declaration. A copy of the cover letter transmitting the declaration under 37 CFR 1.131, and an English translation thereof, has been provided with the subject renewed petition.

In view of the efforts recounted to obtained the signature of joint inventor Sang-Deok Kim, it is agreed that justice would be served by waiving the requirement for his signature on the declaration filed under 37 CFR 1.131.

The $200.00 fee submitted with the subject renewed petition is unnecessary, as the petition fee was previously paid. The $200.00 will be credited to counsel's deposit account.

---

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

The application is being referred to the Technology Center for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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MAR 11 2010

In re Application of	:	
Shunpei Yamazaki	:	
Application No. 11/229,500	:	DECISION GRANTING PETITION
Filed:September 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-0062002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 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 4, 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 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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JUL 15 2010

OFFICE OF PETITIONS

In re Application of
Shunpei YAMAZAKI
Application No. 11/229,500
Filed: September 20, 2005
Attorney Docket No. **12732-0062002**

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 14, 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 June 24, 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) 272-7253.

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 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/229,524	09/20/2005	Kinya Ohtani	NE-70444US	1984

21254 7590 11/15/2007
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER
SINGAL, ANKUSH K

ART UNIT	PAPER NUMBER
2823	

MAIL DATE	DELIVERY MODE
11/15/2007	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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Paper No. 110707

Mr. Donald A. DiPaula
McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Rd., Suite 200
Vienna, VA 22182-3817

Appl No.: 11/229,524	:	
Inv: Ohtani	:	**DECISION ON PETITION**
Filed: September 20, 2005	:	**UNDER** *37 CFR 1.181*
For: Semiconductor Device	:	

This is a decision on applicant's petition labeled " Petition Under 37 CFR §1.181 That a Complete Response be Provided in Accordance with MPEP §707.07(f)" . The applicant requests that the Examiner provide or place on record a demonstration of a "cell portion" ,a "terminal end provided in a periphery of said cell portion" and a "field effect transistor in the cell portion and a trench in a terminal end wherein the bottom of the trench in the terminal end falls below the bottom surface of the trench of the field effect transistor in the cell portion" as asserted by the Examiner to be in the Brown reference (US Published Patent application 2001/0041407.

In reviewing the Brown reference and the office action of July 10, 2007, the examiner has provided sufficient evidence that shows the existence of these elements in the claimed combination. As indicated in the office action, Takaishi teaches most of the elements but lacks the terminal end and the terminal end trench limitations outlined

above. The examiner indicated in the office action that as seen in Figure 8 of Brown that the trenches 40 are provided in the terminal end. Furthermore, the trench 40 which was indicated as being described in paragraph 41 of Brown is etched so as to be below the gate electrode trench 20. All of these features were expressed by the examiner in the July 10, 2007 office action. A field effect transistor is provided (in vertical form) in the cell portion of Takaishi and is composed of source 3, gate 5, gate oxide 4, and drain 1. Element 2 is a channel portion. A similar construction is found in Brown. As the examiner has expressed this using the 5 factors delineated in the *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), the rejection is deemed clear and a complete response was made in the July 10, 2007 office action.

In light of this reading, the applicant's, the petition is hereby **denied** as a complete response has been made.

The above decision is being place in the file wherein the file is awaiting a response to the office action of July 10, 2007.

Matthew S. Smith

Supervisory Primary Examiner AU 2823

Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22101

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MAR 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
SOO SOHN, et al.	:	
Application No. 11/229,525	:	DECISION ON PETITION
Filed: September 20, 2005	:	TO WITHDRAW
Attorney Docket No. **21107/0207505-US0**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 26, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on December 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY P.C.**
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Chong-Gi Hong, et al.	:	
Application No. 11/229,528	:	DECISION GRANTING PETITION
Filed: September 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P57584	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2889 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.*

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

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AUG 14 2008

In re Application of	:	
Krausz et al.	:	
Application No. 11/229,542	:	ON PETITION
Filed: September 20, 2005	:	
Attorney Docket No. P-7129-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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 $525.00 extension of time fee submitted with the petition on April 17, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3679 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BARDMESSER LAW GROUP, P.C.
1025 CONNECTICUT AVENUE, N.W.
SUITE 1000
WASHINGTON, DC 20006

In re Application of
David Robertson
Application No. 11/229,557
Filed: September 20, 2005
Attorney Docket No. 2192.0100000

ON PETITION

This is a decision on the petition, filed June 5, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed February 9, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 10, 2009. A Notice of Abandonment was subsequently mail on June 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 corrected drawings; (2) the petition fee of $1,620 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed on June 5, 2009.

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

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OFFICE OF PETITIONS

In re Application of :
Tomomi Kawase :
Application No. 11/229,583 : ON PETITION
Filed: September 20, 2005 :
Attorney Docket No. SE-US055220

This is a decision on the petition, filed March 7, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 7, 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 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).