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PITTSBURGH, PA 15143

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OFFICE OF PETITIONS

In re Application of :
R. Craig THOMASMEYER :
Application No. 11/241,689 : DECISION ON PETITION
Filed: September 30, 2005 : TO WITHDRAW
Attorney Docket No. 707.001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 12, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted above have been performed.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
R. Craig THOMASMEYER :
Application No. 11/241,689 : DECISION ON PETITION
Filed: September 30, 2005 : TO WITHDRAW
Attorney Docket No. 707.001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 21, 2008.

The request is **APPROVED**.

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

The request was signed by Stanley D. Ference III on behalf of all the attorneys of record.

All the attorneys of record 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 by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: R. CRAIG THOMASMEYER
915 THREE DEGREE ROAD
BUTLER, PA 16002

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MOORE, HANSEN & SUMNER
225 South Sixth Street
Suite 4850
Minneapolis, Minnesota 55402

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Lynn Marie Ockenden :
Application No. 11/241,717 : DECISION ON PETITION
Filed: September 29, 2005 : TO WITHDRAW
Attorney Docket No. 03-012-02-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 February 24, 2006.

The request is **APPROVED**.

A review of the file record indicates that Robert C. Freed: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Robert C. Freed and Practitioners associated with the law firm of Moore, Hansen & Sumner, PLLP have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Robert C. Freed signed the request on behalf of all attorneys of record.

Robert C. Freed and all attorneys/agents associated with application have been withdrawn.

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

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

Karen Creasy for

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Shawn Dempster
45 Island Road
North Oaks, MN 55127

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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Huang Tai Guang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626362 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,718 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : 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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THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

Mail Date: 06/30/2010

| | | |
|---|---|---|
| **Applicant** | : Daniel Deganis | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7657467 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/241,723 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **533** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**Paul Davis**
**Heller, Ehrman, LLP**
**275 Middlefield Road**
**Menlo Park, CA 94025-3506**

In re Application of
David Barker et al.
Application No. 11/241,728
Filed: September 30, 2005.
Attorney Docket No. 40621-1002

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 12, 2007.

The request is **APPROVED**.

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

The request was signed by Paul Davis 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. Accordingly, all correspondence will be mailed to the assignee at the address noted in the Assignment filed with a Power of Attorney on January 3, 2006. A courtesy copy of this decision is being mailed to the correspondence address noted on the request to withdraw as attorney. If attorneys associated with this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

There is no pending office action at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Cydelity, Inc.
2953 Bunker Hill Lane, Suite 100
Santa Clara, CA 95054-1131

cc: Needle & Rosenberg, P.C.
999 Peachtree Street
Suite 1000
Atlanta, GA 30309

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/241,728 | 09/30/2005 | David Barker | 40621-1002 |

**CONFIRMATION NO. 2714**

*OC000000023650012*

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

Date Mailed: 05/02/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

---

Kimberly Gabriel

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

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Nicholas G. Yeager | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591881 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,746 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **282** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 05/18/2010

**Applicant** : Nicholas G. Yeager
**Patent Number** : 7591881
**Issue Date** : 09/22/2009
**Application No**: 11/241,746
**Filed** : 09/29/2005

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

In re Patent No. 7,478,557
Issued: January 20, 2009
Application No. 11/241,754
Filed: September 30, 2005
Dkt. No.: 2550/A80

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE PATENT (37 C.F.R. § 1.705)," filed March 12, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 440 days to 552 days. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

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

The above-identified application matured into U.S. Pat. No. 7,478,557 on January 20, 2009. The patent issued with a patent term adjustment of 440 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentees assert entitlement to a patent term adjustment of 552 days (441 + 112 - 1 (applicant delay)).

The Office agrees that the patent issued three years and 112 days after the filing date of the application. The Office agrees that certain actions were not taken within the specified time frames, and thus, the entry of a period of adjustment of 441 days for Office delay is correct. At issue is whether Patentees should accrue 112 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 441 days for Office failure to take certain actions within a specified time frame (or examination delay).

The Office contends that the entire 112-day period overlaps with the 441 day period 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, 37 CFR 1.703(f) provides that:

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

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

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 30, 2005 to January 20, 2009 (the date on which the patent issued). The Office accorded 441 of patent term adjustment prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of the 112 days for Office delay in issuing the patent overlap with the 441 days of examination delay.

The 112 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 441 days attributable to the grounds specified in 37 C.F.R. § 1.702(a)(1). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

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

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

Alesia M. Brown
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

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SEP 18 2007

OFFICE OF PETITIONS

Applicant: Zhang et al.
Appl. No.: 11/241,768
Filing Date: March 31, 2004
Title: GENIPIN DERIVATIVES AND USES THEREOF
Attorney Docket No.: 1440.2035-003
Pub. No.: 2006/0148724 A1
Pub. Date: July 6, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 11, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chen-Yu Zhang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649014 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,768 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **260** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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JUN 24 2009

OFFICE OF PETITIONS

In re Application of
William J. Veeneman, et. al.
Application No. 11/241,774
Filed: September 29, 2005
Attorney Docket No. 185822/US/2

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 April 1, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When

a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

In re Application of :
Johann Kaderavek, et al. :
Application No. 11/241,781 : DECISION ON PETITION
Filed: September 30, 2005 : TO WITHDRAW
Attorney Docket No. 11336-1096 (P05021US) : FROM RECORD
:

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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman - Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on June 24, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : James Hal Melhart | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636950 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,793 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLE C/O MORRISON AND FOERSTER ,LLP
LOS ANGELES
555 WEST FIFTH STREET SUITE 3500
LOS ANGELES, CA 90013-1024

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Steve P. Hotelling | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7653883 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,839 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **758** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLE C/O MORRISON AND FOERSTER ,LLP
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555 WEST FIFTH STREET SUITE 3500
LOS ANGELES, CA 90013-1024

Mail Date: 05/18/2010

**Applicant** : Steve P. Hotelling
**Patent Number** : 7653883
**Issue Date** : 01/26/2010
**Application No**: 11/241,839
**Filed** : 09/30/2005

: 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 **772** 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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INFINEON
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CHICAGO, IL 60610

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| | | |
|---|---|---|
| In re Patent No. 7,444,488 | : | |
| Issue Date: October 28, 2008 | : | |
| Application No. 11/241,844 | : | ON PETITION |
| Filed: September 30, 2005 | : | |
| Attorney Docket No. 10808/275 | : | |

This is a decision on the petition filed September 17, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

# Electronic Patent Application Fee Transmittal

| | |
|---|---|
| **Application Number:** | 11241844 |
| **Filing Date:** | 30-Sep-2005 |
| **Title of Invention:** | METHOD AND PROGRAMMABLE UNIT FOR BIT FIELD SHIFTING |
| **First Named Inventor/Applicant Name:** | Xiaoning Nie |
| **Filer:** | John Alfred Lingl/Janet Levoska |
| **Attorney Docket Number:** | 10808/275 |

Filed as Large Entity

## Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD($) |
|---|---|---|---|---|
| **Basic Filing:** | | | | |
| **Pages:** | | | | |
| **Claims:** | | | | |
| **Miscellaneous-Filing:** | | | | |
| **Petition:** | | Adjustment date: 11/03/2009 CKHLOK<br>09/18/2009 INTEFSW 00000473 231925 11241844<br>01 FC:1464 130.00 CK<br>02 FC:1811 100.00 CR | | |
| Petition fee- 37 CFR 1.17(h) (Group III) | 1464 | 1 | 130 | 130 |
| **Patent-Appeals-and-Interference:** | | 11/03/2009 CKHLOK 00000003 231925 7444488<br>01 FC:1464 130.00 DA<br>02 FC:1811 100.00 DA | | |
| **Post-Allowance-and-Post-Issuance:** | | | | |
| Certificate of correction | 1811 | 1 | 100 | 100 |

| Description | Fee Code | Quantity | Amount | Sub-Total in USD($) |
|---|---|---|---|---|
| **Extension-of-Time:** | | | | |
| **Miscellaneous:** | | | | |
| | | | **Total in USD ($)** | **230** |

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Fumio Shiozawa | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7578952 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/241,861 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : 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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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Oliver Joen-an Ma | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7628164 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,892 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **853** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Alexandr Kuzminskiy | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7599714 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/241,896 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : 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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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 06/22/2010

| | | |
|---|---|---|
| **Applicant** | : Qi Bi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636582 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/241,897 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : 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.

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NOV - 9 2006

November 2006

JONES, WALKER, WAECHTER, POITEVENT, CARRERE
& DENEGRE, L.L.P.
5TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE LA 70809

| | | |
|---|---|---|
| In re Application of:<br>COX, ET AL.<br>Serial No.: 11/241,909<br>Filed: 03 October 2005<br>Title: Optical Switch | : | DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) |

This is a decision on the petition filed on October 17, 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**.

Effective August 25, 2006, all petitions to make special, except those based on applicant's health or age or the PPH pilot program, must meet the conditions set forth below.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the application, the petition and the required fees were not filed electronically

using the USPTO's electronic filing system (EFS), or EFS-web. The application was filed in paper on October 3, 2005 as evidenced by the Utility Patent Application Transmittal and no assertion has been made that EFS and EFS-web were not available during the normal business hours. Further, the petition and fee were filed in paper as evidenced by the Certificate of Mailing attached thereto.

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 Jose' G. Dees, T-Quality Assurance Specialist, at (571) 272-1569.

Jose' G. Dees, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JJGJR.: 08-07

Paper No:__

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OFFICE OF PETITIONS

RONALD LEE KRUISE
PO.BOX 714
SAN BENITO TX 78586

| | | |
|---|---|---|
| In re Application of | : | |
| Kruise | : | DECISION |
| Application No. 11/241,945 | : | |
| Filing Date: 4 October, 2005 | : | |
| Attorney Docket No.: KRUI001 | : | |

This is a decision on the petition filed on 7 November, 2006, and considered as requests under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petitions as considered under 37 C.F.R. §1.181 are **DISMISSED**; and Petitioner must clarify the record.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

[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.

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

## BACKGROUND

A review of the record indicates that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 1 February, 2006, with reply due absent extension of time on or before 1 May, 2006;
- the instant application went abandoned after midnight 1 May, 2006;
- the Office mailed the Notice of Abandonment on 8 September, 2006;
- on 7 November, 2006, Petitioner filed the instant petition, reciting a narrative of events, and provides statements by himself and his spouse/business partner, but appears to have done so without review of the requirements set forth at MPEP §711.03 ( c) (discussed hereinbelow)–and in particular has failed to provide the documentary support described therein.

Petitioner is reminded to review the Rules of Practice, and in particular those at 37 C.F.R. §1.8 §1.10 and the Commentary at MPEP §503 and §711.03( c): at www.uspto.gov , double-click on "Patents," double-click on "Guides and Manuals," double-click on "Manual of Patent Examining Procedure," see sections "500," "700" and "Appendix-Rules.")

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[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.

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[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.

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 constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]
The commentary at MPEP §711.03(c) provides:

* * *

**A. 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

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[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.

[8] 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.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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.

* **

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). (Emphasis supplied.)

* * *

**And the regulation requires that relief be sought within two (2) months of the act complained of.**

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the showing requirement described above–and, thus, not satisfied his burden herein.

CONCLUSION

Because it appears that Petitioner has not carried his burden in the instant matter, the instant

petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may well be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.) Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[12]) and

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[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[12] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or

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
Encl:1 February, 2006 Non-Final Office Action

agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/241,945 | 10/04/2005 | Ronald Lee Kruise | KRUI001 | 6791 |

7590 02/01/2006

Ronald Lee Kruise
PO.Box 714
San Benito, TX 78586

| EXAMINER | |
|---|---|
| HARTMANN, GARY S | |
| **ART UNIT** | **PAPER NUMBER** |
| 3671 | |

DATE MAILED: 02/01/2006

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

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/241,945 | KRUISE, RONALD LEE | |
| | Examiner | Art Unit | |
| | Gary Hartmann | 3671 | |

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

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *14-16* is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/4/5*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Objections*

Claim 4 is objected to because, with respect to the first line box and first tether line and its ends, the recitations should be --the-- or --said--, not "a," since parent claim 3 gives antecedent bases for these terms. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowrie (U.S. Patent 6,527,475).

Lowrie discloses a tire deflation tool deployment device including a housing (14) and a movable wall (not labeled, see Figures 1 and 9). There is a restraining member (16) with a first end attached to a wall (Figure 4). The second end meets the recitation of being adapted to wrap about the tool since it is sufficiently sized to do so (Figure 4, for example). Upon release of the movable wall, the tool descends in a manner controlled by the restraining member (Figure 1, for example). The latch mechanism is not expressly taught and the first end of the restraining member is not specifically attached to the movable wall. It is common practice to utilize a latch on a pivoting door (i.e., a movable wall) in order to secure a space behind the door/wall and it would have been obvious to one of ordinary skill in the art at the time the invention was made to

have used a latch with Lowrie in order to prevent accidental deployment of the device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have attached the first end to the movable wall in order to, for example, reduce material needed for the tether.

Regarding the recitation of the fabric panel in claims 2-13, there are no recitations regarding this panel that distinguish it from the tether of Lowrie. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a fabric panel with Lowrie in order to suit a particular application; for example, if it was deemed more suitable to attach both ends of the deflation device rather than the middle only (see Figure 4). This change would not require extensive reengineering and, therefore, is within ordinary skill. Note that the configuration recited in claim 14 would require extensive modifications and, therefore, the claim is allowed.

Lowrie discloses a pair of boxes (Figure 3).

Regarding claims 6 and 7, these types of latches are well known and it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used this configuration in order to best suit a particular application.

There is a manual trigger united interconnected to an electronic control unit. Given the inclusion of the latch, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have connected these controls to the latch in order to properly operate the device.

The pivot connection is adjacent the top wall; however, the examiner takes official notice that pivoting at a top or bottom is not patentably distinguishable.

***Allowable Subject Matter***

Claims 14-16 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gary Hartmann
Primary Examiner
Art Unit 3671

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 : 11-07

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OFFICE OF PETITIONS

OFFICE OF DONALD GRANT KELLY
127 S. FAIRFAX STREET/#140
ALEXANDRIA VA 22314

In re Application of :
Kruise :
Application No. 11/241,945 : DECISION
Filed: 4 October, 2005 :
Attorney Docket No. KRUI001

This is a decision on the petition filed on 27 September, 2007, resubmitted on 26 October, 2007, under 37 C.F.R. §1.137(b) to revive an application abandoned due to unintentional delay.

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

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 1 February, 2006, with reply due absent extension of time on or before 1 May, 2006;
- the instant application went abandoned after midnight 1 May, 2006;
- the Office mailed the Notice of Abandonment on 8 September, 2006;
- on 7 November, 2006, the Applicant filed the original petition *pro se* seeking to have withdrawn the holding of abandonment, reciting a narrative of events, and provides statements by himself and his spouse/business partner, but appears to have done so without review of the requirements set forth at MPEP §711.03 ( c)–and in particular has

failed to provide the documentary support described therein, and for those reasons, *inter alia*, the petition was dismissed on 27 August, 2007;

- on 27 September, 2007, Petitioner (Counsel) filed the instant petition (with fee), a reply in the form of an amendment and made the statement of unintentional delay (signed by the Applicant, who controlled the application at the time it went abandoned).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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(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;

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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.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]
And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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(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] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the regulatory requirements herein.

## CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 12 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,617,004
Issued: November 10, 2009
Application No. 11/241,982
Filed: October 4, 2005
Dkt. No.: BARTELS1

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on January 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 928 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 928 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 928 days.

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

*/ALESIA M. BROWN/*

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,617,004 B2

DATED : **November 10, 2009** **DRAFT**

INVENTOR(S) : Bartels, 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 526 days

Delete the phrase "by 526 days" and insert – by 928 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Katsuyuki Moriya | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7622385 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,009 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of :
Tatsuya Shimoda et al :
Application No. 11/242,017 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 040352.04 :

This is a decision on the petition, filed April 30, 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 10, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The examiner of Technology Center AU 2823 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

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OFFICE OF PETITIONS

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of :
Harada, et al. : DECISION
Application No.: 11/242,028 :
Filing Date: 4 October, 2005 :
Attorney Docket No. 53-001 :

This is a decision on the petition filed on 17 July, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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]

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

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

[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.

Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 16 March, 2007 (copy enclosed), with reply due under a non-extendable deadline on or before Monday, 18 June, 2007;
- the application went abandoned by operation of law after midnight 18 June, 2007;
- the Office mailed a Notice of Abandonment on 11 July, 2007;
- on 17 July, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the Notice of Allowance/Allowability and Fees Due, and made a statement of search, provided docket records for the instant application, but not for the due date of the reply as set forth in the guidance of the Commentary at MPEP §711.03( c), as discussed below.

Notably, 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 immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act

---

[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

complained of (see: 37 C.F.R. §1.181(f)); and 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.[3]

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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

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

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

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

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

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

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

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

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

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

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

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

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] 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.[10]))

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[4] 35 U.S.C. §133 provides:
**35 U.S.C. §133 Time for prosecuting application.**
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[10] 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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[11]

The commentary at MPEP §711.03(c) provides:

* * *

**A. 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.

* **

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

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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). (Emphasis supplied.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing requirement herein.

## CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

## ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )[12]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[15]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is 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 .)

[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[15] 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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OFFICE OF PETITIONS

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of :
Harada, et al. : DECISION
Application No.: 11/242,028 :
Filing Date: 4 October, 2005 :
Attorney Docket No. 53-001 :

This is a decision on the petition filed on 5 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 16 March, 2007, with reply due under a non-extendable deadline on or before Monday, 18 June, 2007;
- the application went abandoned by operation of law after midnight 18 June, 2007;
- the Office mailed a Notice of Abandonment on 11 July, 2007;

- on 17 July, 2007, Petitioner filed the original petition with, *inter alia*, an averment that he did not receive a copy of the Notice of Allowance/Allowability and Fees Due, and made a statement of search, provided docket records for the instant application, but not for the due date of the reply as set forth in the guidance of the Commentary at MPEP §711.03( c), and the petition was dismissed on 24 September, 2007;

- the instant petition seeks to overcome these deficiencies, and Petitioner attaches copies of records, including due-date docket records, and makes the statements as directed at MPEP §711.03( c).

However, while a copy of the Notice of Allowance/Allowability and Fees Due was provided as a courtesy with the earlier decision, Petitioner has not filed a reply thereto.

Moreover, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and 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]

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

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

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

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

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

## STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] 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.[8]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9] (See: the commentary at MPEP §711.03(c)[10]

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[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[8] 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.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[10] The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

**A. 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. * **

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

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the requirements herein.

## CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted** and the 11 July, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 with instructions to remail the Notice of Allowance/Allowability and Fees Due and reset the period for reply.

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[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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). (Emphasis supplied.)

* * *

[11] 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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GEORGETOWN ON L7G-4X5 CA CANADA

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of :
Gheorghe Olaru, et al. :
Application No.: 11/242,038 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No.: MMID 2414 :

This is a decision on the petition, filed June 25, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on May 27, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

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

The application is being referred to Technology Center AU 1791 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ALBERT L. FERRO
MEDLER FERRO PLLC
8607 ROCKDALE LANE
SPRINGFIELD, VA 22153

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GEORGETOWN, ON L7G-4X5
CANADA

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Gheorghe Olaru | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614872 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,038 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hiroshi Kageyama | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652647 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,039 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1149** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

In re Application of :
Keiichi Iwazumi, et al. :
Application No. 11/242,046 : DECISION DISMISSING PETITION
Filed: October 4, 2005 : UNDER 37 CFR 1.313(a)
Attorney Docket No. Q90642 :

This is a decision on the petition under 37 CFR 1.313(a), filed December 12, 2007, 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 October 1, 2007, with the issue fee being due on or before January 2, 2008. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Telephone inquiries regarding this decision may be directed to April Wise at (571) 272-1642.

The matter is being referred to Technology Center AU 2612 for appropriate processing of the RCE filed December 12, 2007, and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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MAR 16 2006

H JAY SPIEGEL
P.O. BOX 444
MOUNT VERNON VA 22121

In re Application of :
Jack T. Scully et al :
Serial No.: 11/242,048 : DECISION ON PETITION
Filed: October 4, 2005 :
For: DC Magnetic-Based Position and :
Orientation Monitoring System For Tracking:
Medical Instruments :

This is in response to the petition applicant filed on February 13, 2006 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Frederick R. 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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JUN 18 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Yoshiyuki Aoki | : | |
| Application No. 11/242,059 | : | DECISION ON |
| Filed: October 4, 2005 | : | PETITION |
| Atty Docket No. NEC04181US | : | |

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE filed February 11, 2008.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, September 6, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on December 7, 2007. A courtesy Notice of Abandonment was mailed on January 14, 2008.

In response, applicants filed the instant petition, asserting that the Notice of Allowance was never received and requesting that the holding of abandonment be withdrawn and the Notices remailed. In support thereof, applicants submit the declaration of Mary C. Gibb, manager of the docketing department; a copy of the file jacket and a copy of the relevant docketing records.

A review of the application file reveals no irregularities in the mailing of the Notice of Allowance mailed September 6, 2007. Thus, there is a strong presumption that the correspondence was

properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed January 14, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2117 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Allowance (and Notice of Allowability) mailed September 6, 2007 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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AUG 13 2008

In re Application of :

DEWANJEE, Mrinal K. :
Application No. 11/242,064 : DECISION ON PETITION
Filed: October 4, 2005 : TO WITHDRAW
Attorney Docket No. 5229-0101PUS1 : FROM RECORD
:

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 28, 2008 and re-submitted February 29, 2008.

The request is APPROVED.

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

All future correspondence will be directed to the sole named inventor Mrinal K. Dewanjee at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: DR. MRINAL K. DEWANJEE
2904 LVY LEAF DRIVE
BOYDS, MD 20841

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SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hyun-ho Kim | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7570914 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,083 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **561** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Behram DaCosta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619999 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,105 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **679** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

HELLER EHRMAN LLP,
4350 LA JOLLA VILLAGE DRIVE, SUITE 700
SEVENTH FLOOR
SAN DIEGO CA 92122

In re Application of :

LEE, Nancy M. :
Application No. 11/242,111 : DECISION ON PETITION
Filed: September 29, 2005 : TO WITHDRAW
Attorney Docket No. **43177-0006** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED.**

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

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

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

There is an outstanding Office action mailed March 22, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NANCY M. LEE**
**1830 FUNSTON AVENUE**
**SAN FRANCISCO, CA 94116**

cc: **KENNETH WEBER PH.D.**
**TOWNSEND TOWNSEND & CREW**
**TWO EMBARCADERO CENTER, 8TH FLOOR**
**SAN FRANCISCO, CA 94111-3834**

UNITED STATES PATENT AND TRADEMARK OFFICE

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jo C. Ebergen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636361 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,113 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/27/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**ALSTON & BIRD LLP**
**BANK OF AMERICA PLAZA**
**101 SOUTH TRYON STREET, SUITE 4000**
**CHARLOTTE NC 28280-4000**

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OCT 26 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Doney, Grant William | : | |
| Application No. 11/242,133 | : | ON PETITION |
| Filed: October 4, 2005 | : | |
| Attorney Docket No. 049551/334643 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 28, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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BANK OF AMERICA PLAZA
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SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Grant William Doney | : | |
| Application No. 11/242,133 | : | DECISION GRANTING PETITION |
| Filed: October 4, 2005 | : | UNDER 37 CFR 1.313(c)(3) |
| Attorney Docket No. 049551/334643 | : | |

This is a decision on the petition, filed April 21, 2008, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

April M. Wise
Petitions Examiner
Office of Petitions

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ALSTON & BYRD 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 :
Grant William Doney :
Application No. 11/242,133 : DECISION ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 049551/334643 :

This is a decision on the petition under 37 CFR 1.182, filed, November 27, 2007, requesting reconsideration of the decision granting the petition to revive the application.

The petition is **DISMISSED AS MOOT**.

A review of the application indicates that a Petition to Revive filed September 28, 2007 was granted on October 26, 2007. However on April 21 2008, petitioner filed a Request to Withdraw Application from Issue under 37 CFR 1.313(c) (2). The April 21, 2008 petition has now been granted. Hence the status of the application is abandoned, rendering the petitioner's request moot.

In view of the above, the petition under § 1.182 cannot be granted.

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 Thurman K. Page at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of :
Lars Heineck, et al. :
Application No. 11/242,140 : DECISION ON PETITION
Filed: October 4, 2005 : TO WITHDRAW
Attorney Docket No. 543822018200 : FROM RECORD
:

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

The request is **DISMISSED** as moot.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ESCHWEILER & ASSOCIATES, LLC
NATIONAL CITY BANK BUILDING
629 EUCLID AVENUE
SUITE 1000
CLEVELAND, OH 44114

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Paper No.

BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO IL 60690

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MAR 26 2008

**OFFICE OF PETITIONS**

In re Application of :
Anthony Baerlocher : DECISION ON PETITION
Application No. 11/242,157 :
Filed: October 3, 2005 :
Atty Docket No. 112300-3023 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed September 12, 2007, in the above-identified application. In the alternative, petitioner requests revival based on unintentional delay under 37 CFR §1.137(b).

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

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

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, May 29, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on August 30, 2007. A courtesy Notice of Abandonment was sent on September 17, 2007.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner states that if the USPTO deems that this abandonment was not unavoidable, I believe that the abandonment of this application was unintentional under 37 CFR §1.137(b) and revival is appropriate.

**STATUTES, RULES AND REGULATIONS**

35 U.S.C. §151, provides that the Director may accept the delayed payment of an Issue Fee if the delay in payment is shown to the satisfaction of the Director to have been unavoidable. A grantable petition to revive an unavoidably abandoned application under 37 C.F.R. §1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(l); (3) a showing to the satisfaction of the 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 this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d). Item (3) is at issue in this case.

**ON PETITION UNDER 37 CFR 1.137(a)**

Petitioner's arguments and evidence have been considered, but not found adequate to show "unavoidable" delay within the meaning of §1.137(a).

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). This burden includes establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable. Haines v. Quigg, 673 F.Supp. 314, 316-17, 5 U.S.P.Q.2d 1130, 1131-32 (N.D. Ind. 1987). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the "reasonably prudent person standard" in determining if the delay was unavoidable:

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

> unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 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, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

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:

(1) the error was the cause of the delay at issue;
(2) 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
(3) 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 MPEP 711.03(c)(III)(C)(2)(See also In re Egbers, et al., 6 U.S.P.Q.2d 1869 (Commr. Pat. 1988), rev'd on other grounds sub nom, Theodor Groz & Sohne & Ernest Bechert Nadelfabrik KG v. Quigg, 10 U.S.P.Q.2d 1787 (D.D.C. 1988); In re Katrapat, AG, 6 U.S.P.Q.2d 1863 (Commr. Pat. 1988).

An adequate showing should include (when relevant):
(1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
(2) a thorough explanation of the docketing and call up system in use;
(3) identification of the type of records kept;
(4) identification of the persons responsible for the maintenance of the system;

(5) copies of mail ledger, docket sheets, file wrappers and such other records as may exist which would substantiate an error in docketing;

(6) include an indication as to why the system failed in this instance ; and

(7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Petitioner attributes the cause of the delay in responding to the Notice of Allowance to an IP Docket Assistant failing to take action in response to an email from the IP Docketing Coordinator.

However, petitioner does not identify the specific error by the IP Docket Assistant that was the cause of the delay. By declaration of patent attorney Adam Masia, it is stated that for unknown reasons, the IP Docket Assistant did not download, print, or docket the Notice of Allowance in the Bell Boyd PATTSY IP Docketing Software System. Further, for unknown reasons, the IP Docket Assistant did not docket this Notice of Allowance in the secondary docket. Further, for unknown reasons, the IP Docket Assistant did not match the Notice of Allowance with the patent file. Furthermore, for unknown reasons, the IP Docket Assistant did not provide the Notice of Allowance or the patent file to me (as the responsible attorney). Moreover, the petition does not include a statement from the IP Docket Assistant. Thus, the IP Docket Assistant's actions or inactions are unexplained.

Absent knowledge of the error in the clerical function that was the cause of the delay, it cannot be determined that there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance. Likewise, it cannot be determined whether the IP Docket Assistant 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.

Further, the IP Docketing Coordinator does not set forth any checks on the described work, which were used to assure proper execution of assigned tasks. What system was in place to assure

action pursuant to the email communication to the IP Docket Assistant? No notice was taken of the fact that the IP Docket Assistant failed to download, print, or docket the Notice of Allowance in the Bell Boyd PATTSY IP Docketing Software System; failed to docket the Notice of Allowance in the secondary docket; failed to match the Notice of Allowance with the patent file; and failed to provide the Notice of Allowance or the patent file to the responsible attorney. What system is in place to assure that proper action is taken with respect to the docketing of all of the e-Office communications received at Bell Boyd? Petitioner does not state that with respect to the processing of e-Office communications there have been no other docketing errors. Absent an established successful record of a system of processing of e-Office communications, absent proper checks on the new system established, and given the inaction that occurred in this instance, how can it be concluded that there is in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance?

Further, petitioner's explanation of their inability to obtain information from the clerical employee, presumably a Heather J. Foster is inadequate. Petitioner merely states that the IP Docket Assistant is no longer employed at Bell Boyd and that her last day at Bell Boyd was August 31, 2007. There is no indication that any attempt was made to contact Ms. Foster to ascertain the circumstances of the abandonment of this application. Moreover, Ms. Foster left the employ of Bell Boyd the day before this application went abandoned and merely two weeks before this petition was filed.

In view thereof, it is concluded that petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable," and thus, the petition under 37 CFR 1.137(a) cannot be granted. Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

**ON PETITION UNDER 37 CFR 1.137(b)**

Petitioner is not precluded from seeking revival based on unintentional delay. 37 CFR 1.137(b) provides that:

> If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a

> reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
>
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; pursuant to the general authorization submitted on petition filed September 12, 2007 the petition fee set forth in 37 CFR § 1.17(m) is being charged to Deposit Account No. 02-1818; and a statement of unintentional delay. No terminal disclaimer is required.

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." 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.

All requirements of 37 CFR 1.137(b) have been met. Accordingly, the petition under 37 CFR 1.137(b) is granted.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

---

[1] There was no distinct but concurrent requirement for drawings.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Winkle, PLLC
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : Bikram Baidya | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7611806 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,166 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1034** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Theodore A. Chen
EMC Corporation
6801 Koll Center Parkway
Pleasanton, CA 94566

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yasemin Ugur Ozekinci | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7627609 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,179 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1054** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JUN 13 2007

OFFICE OF PETITIONS

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

In re Application of

**RICE,** Douglas T. et al.
Application No. 11/242,189
Filed: October 03, 2005
Attorney Docket No. **075879.0103**

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 **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 Chad C. Walters on behalf of all attorneys of record who are associated with customer No. 05073. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Douglas T. Rice at the address indicated below.

There are no outstanding office actions at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DOUGLAS T. RICE, PRESIDENT AND CEO**
**TIGERONE DEVELOPMENT, LLC**
**P.O. BOX 1154**
**VERADALA, WA 99037**

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Pamela K. Eaddy | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594883 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,201 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **939** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Christopher & Weisberg, P.A.
Suite 2040
200 E. Las Olas Blvd.
Fort Lauderdale, FL 33301

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SEP 0 6 2006

**OFFICE OF PETITIONS**

In re Application of :
Steven D. Shapiro et al. :
Application No. 11/242,207 : DECISION ON PETITION
Filed: October 3, 2005 : TO WITHDRAW
Attorney Docket No. 1204-4U : 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 April 24, 2006.

The request is **NOT APPROVED**.

The record indicates that Joseph T. Owens is a co-inventor in this application. Accordingly, a proper Revocation of Power of Attorney should be submitted with signatures of all of the inventors. See 37 CFR 1.33(b).

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 Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Retaine Products LLC
2805 Veronia Drive
Suite 204
Palm Beach, FL 33410

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P.O. Box 1450
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

COPY MAILED

MAY 02 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ronald A. Bax, et al. | : | |
| Application No. 11/242,246 | : | DECISION GRANTING PETITION |
| Filed: October 3, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. HYAIR 72032 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 23, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on February 22, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Akira Yamaguchi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647786 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,282 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/242,288 | 10/03/2005 | Satoshi Endo | 05518769US01 | 8191 |

34904 7590 07/20/2010
CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

| EXAMINER | |
|---|---|
| POINT, RUFUS C | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2612 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/20/2010 | ELECTRONIC |

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

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

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

sivon.kalminov@cda.canon.com
marlene.klein@cda.canon.com
IPDocketing@cda.canon.com

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CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

| | | |
|---|---|---|
| In re Application of | : | |
| ENDO, SATOSHI | : | DECISION ON REQUEST TO |
| Application No. 11/242,288 | : | PARTICIPATE IN PATENT |
| Filed: October 3, 2005 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. **05518769US01** | : | 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 June 9, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Doris To/

_____

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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JUL 1 4 2008

**OFFICE OF PETITIONS**

Applicant: Brailove, et al.
Appl. No.: 11/242,301
Filing Date: September 30, 2005
Title: BATCH WATER HANDLING SYSTEM
Attorney Docket No.: APPM/010010/FEP/LPCV/AG
Pub. No.: 2007/0074663 A1
Pub. Date: April 5, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on June 5, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

The amendment received by the Office on June 2, 2006 to the drawings, from another law firm, which included the above-identified application number and was scanned into this application and published has been removed from the application. The amendment received by the Office on November 29, 2006 to the specification, which included the above-identified application number and was scanned into this application has been removed from the application.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Mohamed K. Wagdy | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591249 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/242,311 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **241** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/242342 | 10/03/05 | Hongo | M4065.0610/P610-B |

34904
Canon U.S.A. INC. Intellectual Property Division
15975 Alton Parkway
Irvine, CA 92618-3731

DATE MAILED: October 17, 2007

**DECISION GRANTING PETITION UNDER 37 CFR 1.138**
*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d) filed on October 03, 2005 requesting for a refund any previously paid search fee and excess claims fee in the above-identified application, and the petition under 37 CFR 1.138(c) filed on April 16, 2007, for express abandonment to avoid publication of the above-identified application.

The petitions are granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded. The application has been withdrawn from publication. A notice of abandonment will be mailed in due course.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Rick Clemons

Pre-Grant Publication Division

571-272-4200

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**MICHAEL J. STRIKER**
**103 EAST NECK ROAD**
**HUNTINGTON NY 11743**

| | | |
|---|---|---|
| In re Application of | : | |
| Jochen Huster et al | : | |
| Application No. 11/242,346 | : | DECISION ON PETITION |
| Filed: October 3, 2005 | : | UNDER 37 CFR 1.55(c) |
| Attorney Docket No. 3399 | : | |

This is a decision on the petition filed June 27, 2006 which is being treated as a petition under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign German Application No. 10 2004 048 885.01 filed October 6, 2004.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

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

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

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

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

This application was filed on Ocober 3, 2005, which is after November 29, 2000 and within 12 months of October 6, 2004 (the filing date of the foreign application to which benefit is now being claimed). On June 27, 2006, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.***

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

This application is being referred to Technology Center AU 3671 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/242,346 | 10/03/2005 | 3671 | 1150 | 3399 | 3 | 23 | 2 |

**CONFIRMATION NO. 6522**

278
MICHAEL J. STRIKER
103 EAST NECK ROAD
HUNTINGTON, NY 11743

**REPLACEMENT FILING RECEIPT**

*OC000000021097628*

*OC000000021097628*

Date Mailed: 11/03/2006

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

**Applicant(s)**

Jochen Huster, Guetersloh, GERMANY;
Ralf Hartmann, Melle, GERMANY;
Nobert Diekhans, Guetersloh, GERMANY;

**Power of Attorney:**

Michael Striker--27233

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

GERMANY 10 2004 052 298.7 10/27/2004
GERMANY 10 2004 048 885.1 10/06/2004

**If Required, Foreign Filing License Granted:** 10/20/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,346**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Transfer-assistance system

**Preliminary Class**

056

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

**GRANTED**

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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Jim H. Salter
105 Thoreau Lane
FOLSOM, CA 95630

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Matt Danzig | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7342587 | : RECALCULATION of PATENT |
| **Issue Date** | : 03/11/2008 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,360 | : OF WYETH |
| **Filed** | : 09/30/2005 | : |
| | | : |

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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HICKMAN, PALERMO, TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

MAILED

JUN 08 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Allison WAINGOLD ET AL | : | |
| Application No. 11/242,361 | : | DECISION ON PETITION |
| Filed: September 30, 2005 | : | |
| Attorney Docket No. 50277-2822 | : | |

This is a decision on the petition under 37 CFR 1.314, filed May 24, 2010, to defer issuance of the patent. A patent number and issue date has not been assigned.

The petition is **DISMISSED**.

Petitioner asserts that because a 37 CFR 1.312 amendment has been filed, the petition was filed in order to allow sufficient time for the examiner to consider this 37 CFR 1.312 amendment.

Petitioner does not assert or satisfy the criteria for deference of issuance pursuant to the requirement of a showing of a good and sufficient reasons why it is necessary to defer issuance of the patent. Prosecution of an application before the examiner concludes upon the allowance of the application. A 37 CFR 1.312 amendment cannot be used to continue prosecution before the examiner. Accordingly, the petition considered under any reasonably applicable grounds cannot be granted.

This matter is being returned to the Publishing Division.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

MAILED

JUN 16 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Allison WAINGOLD ET AL | : | CORRECTED |
| Application No. 11/242,361 | : | DECISION ON PETITION |
| Filed: September 30, 2005 | : | |
| Attorney Docket No. 50277-2822 | : | |

This is a corrected decision on the petition under 37 CFR 1.314, filed May 24, 2010, to defer issuance of the patent. A patent number and issue date has not been assigned.

The petition is **DISMISSED**.

Petitioner asserts that because a 37 CFR 1.312 amendment has been filed, the petition was filed in order to allow sufficient time for the examiner to consider this 37 CFR 1.312 amendment.

Petitioner does not assert or satisfy the criteria for deference of issuance pursuant to the requirement of a showing of a good and sufficient reasons why it is necessary to defer issuance of the patent. Prosecution of an application before the examiner concludes upon the allowance of the application. A 37 CFR 1.312 amendment cannot be used to continue prosecution before the examiner. Accordingly, the petition considered under any reasonably applicable grounds cannot be granted.

This matter is being returned to Technology Center 2159 for action in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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**HICKMAN PALERMO TRUONG & BECKER/ORACLE**
**2055 GATEWAY PLACE**
**SUITE 550**
**SAN JOSE CA 95110-1083**

**MAILED**

JUN 2 4 2010

**OFFICE OF PETITIONS**

In re Application of :
Allison Waingold et al :
Application No. 11/242,361 : DECISION GRANTING PETITION
Filed: September 30, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50277-2822 :

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

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on May 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) 272-3208.

This application is being referred to Technology Center AU 2159 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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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** | : Helen S. M. Lu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7601361 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,395 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **702** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Luis Cesio Caccialli | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7581415 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,410 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : 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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MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Stuart L. Breslow | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7617148 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,422 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/30/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE HALLE BUILDING
CLEVELAND OH 44115

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Viturro et al. :
Application Number: 11/242423 :
Filing Date: 09/30/2005 : ON PETITION
Attorney Docket Number: :
20040553-US-NP XERZ 2 018 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 19, 2008, for failure to timely respond to the non-final Office mailed on August 18, 2008, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The subject petition was filed on April 8, 2009, accompanied by an amendment.

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

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

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

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

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

The application is referred to Technology Center Art Unit 2625 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY GROUP
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WASHINGTON, DC 20044-4300

Mail Date: 06/14/2010

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|---|---|---|
| **Applicant** | : Anton Stadlmair | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607389 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/242,429 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 09/29/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Fengguo Yang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639673 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,451 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1010** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 07/06/2010

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|---|---|---|
| **Applicant** | : David Belz | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643486 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/242,453 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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 C. Krueger, Ph.D.
Gryphon International, Inc.
Suite 385
2064 West Avenue - J
Lancaster, CA 93536

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Robert Curtis Krueger :
Application No. 11/242,470 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 17, 2008. A Notice of Abandonment was mailed on September 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1797 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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HODES, PESSIN & KATZ, P.A
901 DULANEY VALLY ROAD, SUITE 400
BALTIMORE, MD 21204

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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
Robert M. Bauman, et. al. :
Application No. 11/242,484 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. 04212-PA :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 9, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed June 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $720 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Per authorization given in the petition filed on January 9, 2008, $30 for ten (10) advance order soft copies has been charged to petitioner's deposit account.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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901 DULANEY VALLY ROAD , SUITE 400
BALTIMORE, MD 21204

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APR 1 8 2008

**OFFICE OF PETITIONS**

In re Application of :
Joseph T. Armfield, Jr., et. al. :
Application No. 11/242,484 : DECISION ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. 04212-PA :

This is a decision on the petition under 37 CFR 1.182 filed on August 3, 2007, to change the order of the named inventors.

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

1. Joseph T. Armfield, Jr.

2. Robert M. Bauman

The Office acknowledges receipt of the petition and $130 petition fee submitted on August 3, 2007, as being submitted prior to payment of the issue fee. However, a petition under 37 CFR 1.182 requires a $400 petition fee; therefore, as authorized, the difference of $270 has been charged to petitioner's deposit account.

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

A corrected Filing Receipt, which reflects the new order of inventors, accompanies this decision on petition.

This application file is being returned to the Office of Data Management

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

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/242,484 | 10/03/2005 | 3676 | 1350 | 04212-PA | 30 | 6 |

**CONFIRMATION NO. 8206**

72468
HODES, PESSIN & KATZ , P.A
901 DULANEY VALLY ROAD , SUITE 400
BALTIMORE, MD 21204

**CORRECTED FILING RECEIPT**

Date Mailed: 04/17/2008

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)**

Joseph T. Armfield JR., Westminster, MD;
Robert M. Bauman, Severna Park, MD;

**Power of Attorney:**
Leonard Bloom--18369
Robert Gamson--32986
Sam Rosen--37991

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/669,366 04/08/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/242,484**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

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

**Title**

LOCKING SYSTEM FOR A DOOR OF AN ENCLOSURE

**Preliminary Class**

109

## 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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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : 4/7/2010
Patent No. : 7,447,702 B2
Serial No. : 11/242,494
Inventor(s) : Drath et al.
Issued : November 4, 2008
Title : **SYSTEM AND METHOD FOR THE STRUCTURALLY DECOUPLED EXCHANGE OF OBJECT-ORIENTED DATA STRUCTURES**
Docket No. : **MP.NR.04/594**
Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

*Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.*

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

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>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.

**Ernest C. White, *LIE***
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

ecw

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 NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/242,511 | 10/03/2005 | Peter Mardilovich | 200502738-1 | 7958 |

7590 04/21/2008

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

| EXAMINER | |
|---|---|
| DIAZ, JOSE R | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2815 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/21/2008 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/22/2008 DTERRY 11242511
10/06/2005 MGEBREM 00000033 082025
02 FC:1111 500.00 CR
04 FC:1201 600.00 CR
05 FC:1202 1600.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN V. STEWART
1308 HENRY BALCH DRIVE
ORLANDO, FL 32810

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NOV 23 2005

**OFFICE OF PETITIONS**

In re Application of :
Nenzito C. Deoliviera :
Application No. 11/242,525 : DECISION ON PETITION
Filed: October 3, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 3, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Inventor Nenzito C. Deoliviera's Florida Identification Card 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 3714 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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OFFICE OF PETITIONS

In re Application of :
Kesselmayer, et al. : DECISION ON PETITION
Application No. 11/242,526 :
Filed: October 3, 2005 :
Atty. Dkt. No.: A01688 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 16, 2008.

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

This application was held abandoned July 19, 2007 for failure to timely submit a proper reply to the non-final Office action mailed April 18, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 16, 2007.

Petitioners argue that a proper response to the non-final Office action was submitted via facsimile on August 20, 2007, and included a constructive petition for extension of time.

Review of Office records reveals that a response received at the USPTO on August 20, 2007, while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 10/242,526. As a result of applicants' error, the application was held abandoned.

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, applicants failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicants' error as a correctable minor error as permitted under MPEP 502. However, applicants are 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.

Petitioners' deposit account has been charged the required one month extension of time for submission of the reply August 20, 2007.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Shmuel Aharon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7630549 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,549 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **919** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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**LISA M. SOLTIS**
**ILLINOIS TOOL WORKS INC.**
**3600 WEST LAKE AVENUE**
**GLENVIEW IL 60026**

**COPY MAILED**

APR 25 2008

**OFFICE OF PETITIONS**

In re Application of :
Chris H. PORTH et al :
Application No. 11/242,559 : DECISION ON PETITION
Filed: 10/4/2005 :
Attorney Docket No. 15364 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 12/10/2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment mailed, 3/9/2007, which set a period for reply of one (1) month or 30 days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on 4/10/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 3721 for appropriate action by the Examiner in the normal course of business on the reply received 12/10/2007.

David A. Bucci
Petitions Examiner
Office of Petitions

cc: Lawrence J. Crain
300 South Wacker Drive- Suite 2500
Chicago, Illinois 60606

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Donald N. Halgren
35 Central Street
Manchester MA 01944

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AUG 18 2006
OFFICE OF PETITIONS

In re Application of
Crowley
Application No.11/242,611
Filed: October 3, 2005
Title of Invention: Acoustic Ribbon Transducer Arrangement

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed July 17, 2006 to revive the above-identified application.

This petition is hereby **Dismissed.**

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

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on October 21, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 22, 2005. A Notice of Abandonment was mailed on June 29, 2006.

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

CFR 1.137(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 Director may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Although petitioner has provided an executed declaration, the declaration fails to meet the requirements of 37 CFR 1.63. Specifically petitioner has failed to provide the statements required in 37 CFR 1.63 (b)(2) and (b)(3). A newly executed declaration should be submitted.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Donald N. Halgren
35 Central Street
Manchester MA 01944

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of
Robert Crowley
Application No.11/242,611
Filed: October 3, 2005
Title of Invention: Coustic Ribbon Transducer Arrangements

DECISION ON PETITION

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

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on October 21, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 22, 2005. A Notice of Abandonment was mailed on June 29, 2006. A petition was dismissed on August 18, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

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

COPY MAILED
AUG 16 2006
OFFICE OF PETITIONS

DONALD N. HALGREN
35 CENTRAL STREET
MANCHESTER, MA 01944

In re Application of :
Robert J. Crowley :
Application No. 11/242,612 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. MICRO-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 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 October 21, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 2005. A Notice of Abandonment was mailed on June 29, 2006.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE LAW OFFICE OF RICHARD W. JAMES
25 CHURCHILL ROAD
CHURCHILL PA 15235

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Gabrick, et al. :
Application No. 11/242,616 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. MIND-05-001 :
For: INNOVATION MANAGEMENT
SYSTEM, APPARATUS, AND METHOD

This is a decision on the petition under 37 CFR 1.47(a), filed March 2, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 3, 2005 without an executed declaration. On November 1, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring applicants to submit various fees, an executed oath/declaration and a surcharge for their late filing within an extendable two month period from the mail date of the Notice.

In response, on March 2, 2006, petitioners timely filed various fees, a declaration executed by 2 of 4 joint inventors, the surcharge, the instant petition and petition fee. The petition is accompanied by a statement of facts by John I. Gabrick, describing Sandra Force's attempts to obtain non-signing inventor Monfradi's signature on the declaration, and a statement of facts of Attorney Richard W. James, who explains non-signing inventor Elston received a copy of the patent application and documents for his signature, but constructively refused to sign the declaration though delay.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that Mr. Monfradi has constructively refused to sign the declaration. Mr. Gabrick does not appear to have first hand knowledge of the efforts made to obtain Mr. Monfradi's cooperation. It appears that Sandra Force has first hand knowledge of the pertinent events.

The Office would like Sandra Force's statement regarding her efforts to obtain Mr. Monfradi's signature on the declaration. The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. MPEPE 409.03(d)

Deposit account no. 50-2642 will be charged the required $200.00 petition fee.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE LAW OFFICE OF RICHARD W. JAMES
25 CHURCHILL ROAD
CHURCHILL PA 15235

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of :
Gabrick, et al. :
Application No. 11/242,616 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. MIND-05-001 :
For: INNOVATION MANAGEMENT
SYSTEM, APPARATUS, AND METHOD

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed May 22, 2006

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors Elston and Monfradi have constructively refused to join in the filing of the above-identified application. The statement of facts of Attorney Richard W. James explains non-signing inventor Elston received a copy of the patent application and documents for his signature, but constructively refused to sign the declaration though delay. The statement of facts of Sandra Force explains that she mailed a copy of the application, a declaration and assignment to Mr. Monfradi, along with a request that he sign the declaration and return it. Mr. Monfradi did not return a signed declaration and has engaged in a pattern of avoidance with respect to communicating about the application. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CHARLES MONFRADI
106 PINE AVENUE
WHEELING, WV 26003

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of :
Gabrick, et al. :
Application No. 11/242,616 : LETTER
Filed: October 3, 2005 :
Attorney Docket No. MIND-05-001 :
For: INNOVATION MANAGEMENT
SYSTEM, APPARATUS, AND METHOD

Dear Mr. Mondfradi:

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE LAW OFFICE OF RICHARD W. JAMES
25 CHURCHILL ROAD
CHURCHILL PA 15235

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CASSIUS ELSTON
2737 226TH AVE., N.E.
SAMMAMISH, WA 98074

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of :
Gabrick, et al. :
Application No. 11/242,616 : LETTER
Filed: October 3, 2005 :
Attorney Docket No. MIND-05-001 :
For: INNOVATION MANAGEMENT
SYSTEM, APPARATUS, AND METHOD

Dear Mr. Elston:

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE LAW OFFICE OF RICHARD W. JAMES
25 CHURCHILL ROAD
CHURCHILL PA 15235

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ALEXANDRIA, VA 22313-1450
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SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE WA 98004

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JAN 19 2007

OFFICE OF PETITIONS

Applicant: Jung et al.
Appl. No.: 11/242,619
Filing Date: October 3, 2005
Title: VIRTUAL WORLD PROPERTY DISPOSITION AFTER VIRTUAL WORLD OCCURRENCE
Attorney Docket No.: 0305-003-050B
Pub. No.: US 2006/0178966 A1
Pub. Date: August 10, 2006

This is a decision on the request for a "Corrected Notice of Publication of Application, filed on August 29, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the Notice of Publication of Application be corrected because the word "Occurrence" is misprinted as "Occurence" in the title of the invention.

The Notice of Publication cannot be reprinted a new title as requested, as there is not a method to regenerate the Notice. The notice was printed with the title as indicated on the Filing Receipt mailed December 2, 2005. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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JUL 15 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Verfuerth | : | |
| Application No. 11/242,620 | : | ON APPLICATION FOR |
| Filed: October 3, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 042365-0108 | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed January 15, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred seventy-seven (477) days, not two hundred seven (207) 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[1].

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] This calculation is based on a projected issue date of June 30, 2009.

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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

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[2] 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 decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**KNOBBE MARTENS OLSON & BEAR LLP**
**2040 MAIN STREET**
**FOURTEENTH FLOOR**
**IRVINE CA 92614**

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Gadde et al. :
Application No. 11/242,638 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. OREX.007CP3 :

This is a decision on the petition under 37 CFR 1.182, filed November 6, 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. Kishore M. GADDE

2. K. Ranga R. KRISHNAN

A Corrected Filing Receipt is enclosed reflecting the change.

This matter is now being referred to Technology Center 1600 for examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/242,638 | 10/03/2005 | 1616 | 565 | OREX.007CP3 | 3 | 14 | 3 |

**CONFIRMATION NO. 4701**
**CORRECTED FILING RECEIPT**
*OC000000021652667*
*OC000000021652667*

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 12/18/2006

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

**Applicant(s)**

Kishore M. Gadde, Durham, NC;
K. Ranga R. Krishnan, Chapel Hill, NC;

**Power of Attorney:** The patent practitioners associated with Customer Number **20995**.

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/034,316 01/11/2005
which claims benefit of 60/567,896 05/03/2004
and claims benefit of 60/616,393 10/05/2004
and claims benefit of 60/535,799 01/13/2004
and claims benefit of 60/535,800 01/13/2004

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/27/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,638**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Compositions of an anticonvulsant and an antipsychotic drug and methods of using the same for affecting weight loss

**Preliminary Class**

424

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

**GRANTED**

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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sung Hwan Moon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7585862 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,653 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **740** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kathleen Battista | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582649 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,654 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **674** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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**.:20080721

**DATE** : July 27, 2008

**TO SPE OF** : ART UNIT 3782

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7,344,309

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

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - PK 3-910**
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

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

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

**Comments:**

**SPE:** /Nathan J Newhouse/ **Art Unit** 3782

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

Paper No. None

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

COPY MAILED

AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Rodney B. Croteau et al. :
Application No. 11/242,662 : DECISION ON PETITION
Filed: October 3, 2005 : UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: 4630-62773-03 :
Title: CYTOCHROME P450 OXYGENASES AND THEIR USES :

This is a decision on the petition filed May 22, 2006, pursuant to 37 C.F.R. §1.181(a), 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 18, 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 19, 2005.

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].

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 Office of Initial Patent Examination (OIPE) will be notified of this decision. OIPE will compare the submission which Petitioner has submitted along with this petition, and determine if the requirements of the notice of October 18, 2005 have been met. OIPE will note that it does not appear that Petitioner has submitted the surcharge associated with the submission of a filing fee, search fee, examination fee, or oath or declaration as set forth in 37 C.F.R. §1.16(f)[2].

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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1 See MPEP 711.03(c).
2 The petition does not appear to include a general authorization to charge any fee to a deposit account, but instead expressly limits the authorization to either the petition fee or the extension of time, should this petition be dismissed.
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/242,670 | 10/04/2005 | 2816 | 1000 | AUS920050449US1 | 3 | 20 | 3 |

**CONFIRMATION NO. 7302**

**CORRECTED FILING RECEIPT**

*OC000000017844773*

50170
IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
P.O. BOX 832745
RICHARDSON, TX 75083

Date Mailed: 01/13/2006

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

**Applicant(s)**

David W. Boerstler, Round Rock, TX;
Eskinder Hailu, Austin, TX;
Kazuhiko Miki, Round Rock, TX;
Jieming Qi, Austin, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number **50170**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/20/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,670**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Level shifter system and method to minimize duty cycle error due to voltage differences across power domains

**Preliminary Class**

327

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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

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

**NOT GRANTED**

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

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/242,674 | 10/04/2005 | 2115 | 1000 | AUS920050577US1 | 6 | 20 | 2 |

**CONFIRMATION NO. 7281**

**CORRECTED FILING RECEIPT**

*OC000000017852747*

50170
IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
P.O. BOX 832745
RICHARDSON, TX 75083

Date Mailed: 01/17/2006

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

**Applicant(s)**

Nathan P. Chelstrom, Cedar Park, TX;
Mack W. Riley, Austin, TX;
Shoji Sawamura, Austin, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number **50170**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/20/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,674**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Clock control hierarchy for integrated microprocessors and systems-on-a-chip

**Preliminary Class**

713

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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**NOT GRANTED**

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|---|---|---|---|---|---|---|---|
| 11/242,675 | 10/04/2005 | 2811 | 1000 | AUS920050450US1 | 4 | 20 | 3 |

**CONFIRMATION NO. 7284**

**CORRECTED FILING RECEIPT**

*OC000000017845124*

50170
IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
P.O. BOX 832745
RICHARDSON, TX 75083

Date Mailed: 01/13/2006

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

**Applicant(s)**

David W. Boerstler, Round Rock, TX;
Eskinder Hailu, Austin, TX;
Kazuhiko Miki, Round Rock, TX;
Jieming Qi, Austin, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number **50170**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/20/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,675**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Thermal sensing method and apparatus using existing ESD devices

**Preliminary Class**

257

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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**NOT GRANTED**

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|---|---|---|---|---|---|---|---|
| 11/242,676 | 10/04/2005 | 2182 | 1000 | AUS920050541US1 | 7 | 20 | 3 |

**CONFIRMATION NO. 7287**

**CORRECTED FILING RECEIPT**

*OC000000017845175*

50170
IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
P.O. BOX 832745
RICHARDSON, TX 75083

Date Mailed: 01/13/2006

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

**Applicant(s)**

Tilman Gloekler, Gaertringen, GERMANY;
Ingemar Holm, Stuttgart, GERMANY;
Ralph C. Koester, Tuebingen, GERMANY;
Mack W. Riley, Austin, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number **50170**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/20/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,676**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

High speed on-chip serial link apparatus and method

**Preliminary Class**

710

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

**GRANTED**

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

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/242,677 | 10/04/2005 | 2816 | 2750 | AUS920050578US1 | 3 | 47 | 5 |

**CONFIRMATION NO. 7314**

**CORRECTED FILING RECEIPT**

*OC000000017853056*

50170
IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
P.O. BOX 832745
RICHARDSON, TX 75083

Date Mailed: 01/17/2006

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

**Applicant(s)**

David W. Boerstler, Round Rock, TX;
Eskinder Hailu, Austin, TX;
Jieming Qi, Austin, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number **50170**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/20/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/242,677**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Apparatus and method for automatically self-calibrating a duty cycle circuit for maximum chip performance

**Preliminary Class**

327

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : John L. Cabanski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614201 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,692 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1043** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**ROPES & GRAY LLP**
**PATENT DOCKETING 39/41**
**ONE INTERNATIONAL PLACE**
**BOSTON MA 02110-2624**

**COPY MAILED**

MAR 1 4 2008

**OFFICE OF PETITIONS**

In re Application of :

**YOUNG**, Lincoln et al. :
Application No. 11/242,694 : DECISION ON PETITION
Filed: October 03, 2005 : TO WITHDRAW
Attorney Docket No. **103310-P01-001** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 21, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **BOND, SCHOENECK & KING, PLLC**
**10 BROWN ROAD, SUITE 201**
**ITHACA, NY 14850-1248**

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

In re Application of :
Trainor, et al. : DECISION REFUSING STATUS
Application No. 11/242,721 : UNDER 37 CFR 1.47(a)
Filed: October 3, 2005 :
Dkt. No.: 12406/15301 :
For: GAMING METHOD AND MACHINE :
WITH BONUS GAME :

This decision is in response to the petition under 37 CFR 1.47(a) filed December 23, 2005. The required petition fee of $200.00 has been charged to petitioners' deposit account.

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 October 3, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed October 21, 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 requirement (1) set forth above. Petitioners allege the roommate of the non-signing

inventor indicates that the inventor is engaged in active military duty and that the roommate does not have a forwarding address for the inventor.

Petitioners have failed to establish that the non-signing inventor cannot be reached or located. Petitioners are advised that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

The fact that a non-signing inventor is temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. Petitioners may wish to locate the legal representative of the non-signing inventor to determine a mailing address for the inventor or to determine if in light of the alleged unavailability of the non-signing inventor someone, such as the inventor's legal representative, may be authorized to act on behalf of the inventor. At a minimum, petitioners are required to establish that effort has been made to locate the non-signing inventor. *See*, MPEP 409.03(d).

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

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By hand: | U.S. Patent and Trademark Office<br>Customer Window, Mail Stop Petition<br>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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 0 5 2006

**OFFICE OF PETITIONS**

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

| | |
|---|---|
| In re Application of | : |
| Trainor, et al. | : DECISION NOTING JOINDER |
| Application No. 11/242,721 | : OF INVENTOR AND PETITION |
| Filed: October 3, 2005 | : UNDER 37 CFR 1.47(a) MOOT |
| Docket No.: 12406/15301 | : |

This is a decision on the petition renewed under 37 CFR 1.47(a), filed April 7, 2006, and supplemented April 25, 2006.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**MARSHALL & MELHORN**
**FOUR SEAGATE, EIGHT FLOOR**
**TOLEDO OH 43604**

**COPY MAILED**

NOV 16 2005

**OFFICE OF PETITIONS**

In re Application of :
Slesinski, Steven G. :
Application No. 11/242,735 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 1-16968 :

This is a decision on the petition filed November 3, 2005, requesting that the above-identified application be accorded a filing date of October 4, 2005, rather than the presently accorded date of October 5, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

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 October 4, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 151028385 US, showing an incorrect handwritten "date-in" of "October 5, 2005." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated October 4, 2005 on the cover page for the application papers. Additionally, applicant has submitted copy of the Track & Confirm record showing that the package in question was accepted on October 4, 2005, at 3:59 p.m. at the Toledo, OH USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on October 4, 2005. Accordingly, the instant application is entitled to a filing date of October 4, 2005 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been charged.

This matter is being referred to Technology Center 3600 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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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Lee Ann Olson | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641091 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,761 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **92** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Henry J. Breslin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7659402 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,763 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1039** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

January 15, 2008

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

JAN 22 2008

| | | |
|---|---|---|
| In re application | : | |
| MASAO IKEDA | : | NOTICE OF WITHDRAWAL |
| Application No.: 11/242768 | : | FROM ISSUE |
| Filed: October 04, 2005 | : | UNDER 37 CFR 1.313 |
| Attorney Docket No.: 256765US2 | : | |
| For: LIGHT EMITTING DEVICE AND OPTICAL DEVICE USING THE SAME | : | |

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 18, 2007 are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner Toan Ton at (571) 272-2303.

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

/Robert Oberleitner/

Robert Oberleitner, Director
Technology Center 2800
Semiconductor, Electrical, and Optical Systems, and Components

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**PATZIK, FRANK & SAMOTNY LTD.**
**150 SOUTH WACKER DRIVE**
**SUITE 1500**
**CHICAGO, IL 60606**

**MAILED**

APR 20 2010

**OFFICE OF PETITIONS**

In re Application of :
**LEPRE**, Stefano et al. :
Application No. 11/242,797 : DECISION ON PETITION
Filed: October 03, 2005 : TO WITHDRAW
Attorney Docket No. **BCG 0007 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 February 23, 2010.

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

A review of the file record indicates that the power of attorney to PATZIK, FRANK & SAMOTNY LTD. has been revoked by the assignee of the patent application on January 18, 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 Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **IPHORGAN, LTD.**
**1130 LAKE COOK ROAD**
**SUITE 240**
**BUFFALO GROVE IL 60089**

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/242,805 | 10/03/2005 | Eric C. Hamilton | 5693P174 | 7861 |

48102 7590 12/19/2008

NETWORK APPLIANCE/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

| EXAMINER |
|---|
| LI, ZHUO H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2185 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/19/2008 | PAPER |

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

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

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NETWORK APPLIANCE/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

*In re* Application of: HAMILTON et al.
Appl. No.: 11/242,805
Filed: October 3, 2005
For: **RESERVE STACKING**

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on August 21, 2008, to expunge the "Proposed Amendments" submitted on March 24, 2008.

The petition is **GRANTED**.

Petitioner requests that the "Amendment – After Non-Final Rejection" submitted on March 24, 2008 be expunged from the record. Petitioner states that the the amenments submitted in such paper were "proposed amendments for discussion purposes only", and was unintentionally submitted to the central fax server.

The expunged documents have been closed from public view on December 19, 2008, and will not be returned to applicant.

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

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

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

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RONALD A. CHRISTALDI
101 EAST KENNEDY BOULEVARD
SUITE 2800
TAMPA, FL 33602

**MAILED**

MAR 2 9 2010

**OFFICE OF PETITIONS**

In re Application of :
Aldo A. Laghi :
Application No. 11/242,815 : DECISION ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. A34800-114077-40 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 13, 2009. Accordingly, the date of abandonment of this application is January 14, 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

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**MORRISON & FOERSTER, LLP**
**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES CA 90013-1024WASHINGTON DC 20036**

**MAILED**

JUN 03 2010

**OFFICE OF PETITIONS**

In re Application of
Michael A. Sheha, et al.
Application No. 11/242,818
Filed: October 3, 2005
Attorney Docket No. 513162000800

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed April 22, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 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.*

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **NETWORKS IN MOTION, INC.**
**6A, LIBERTY, 2ND FLOOR**
**ALISO VIEJO, CA 92656**

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
PO BOX 14300
WASHINGTON DC 20044-4300

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MAY 09 2008

In re Application of :
Kessler, et al :
Application No. 11/242,821 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. 102636.57981US :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed August 15, 2007.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on October 2, 2006. However, the US Patent and Trademark Office was unintentionally not notified of this filings within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

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

Receipt of the $1500 petition fee is acknowledged.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing is enclosed.

The application is being forwarded to Group Art Unit 3691 for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/242,821 | 10/03/2005 | Deborah Kessler | 102636.57981US |

**CONFIRMATION NO. 7837**

23911
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

**NONPUBLICATION RESCISSION LETTER**

*OC000000029682209*

Date Mailed: 05/01/2008

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

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

The projected publication date is WDNP.

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".

/ccongo/

---

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

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**IRVING S RAPPAPART**
**1500 EDGEWOOD DRIVE**
**ALO ALTO, CA 94303**

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DEC 1 4 2007

OFFICE OF PETITIONS

In re Application of :
Lisa Ann LABELLE, et al :
Application No. 11/242,847 : DECISION ON PETITION
Filed: October 5, 2005 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 22, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GENEVA WASSERMAN
5601 JED SMITH ROAD
HIDDEN HILLS, CA 91302

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 7/28/08

**Paper No.:** —

**TO SPE OF** : ART UNIT 1732

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/242907 Patent No: 7252795 B2

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

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

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

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

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

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

**Thank You For Your Assistance**

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

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

**Comments:** _____

Mary Lynn Theisen — 1791

~~SPE~~ — Art Unit

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WASHINGTON DC 20037-3213

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
**OKOSHI**, Takeshi :
Application No. 11/242,912 : DECISION GRANTING PETITION
Filed: October 5, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q90783** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

***Petitioner is advised that the issue fee paid on January 15, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ming-Jen Kuo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613565 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,929 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **757** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kunihiro Shiota | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626648 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/242,935 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COMMISSIONER FOR PATENTS
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Paper No. None

MARKS & CLERK
P.O. BOX 957
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OTTAWA ON K1P 5S7 CA CANADA

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of
Luc Ouellet et al.
Application No. 11/242,960
Filed: October 5, 2005
Attorney Docket No. 18612-US-CONT
Title: FABRICATION OF ADVANCED SILICON-BASED MEMS DEVICES

DECISION ON PETITION

## BACKGROUND

This is a decision on the petition filed December 8, 2005, requesting that the above-identified application be accorded a filing date of October 5, 2005, with Figures 10-11 as part of the original disclosure of the application.

The application was filed on October 5, 2005. However, on November 2, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice) stating that the application had been accorded a filing date of October 5, 2005, and advising applicants that the application appeared to have been deposited without Figures 10-11.

Petitioners allege that Figures 10-11 were included with the original filing on October 5, 2005. In support, the petitioner sets forth a copy of his stamped postcard receipt, which acknowledges receipt of "formal application including: specification, abstract, and drawings." in the U.S. Patent Office on October 5, 2005. Petitioner has also referred to a transmittal letter, which purportedly sets forth that 23 sheets of drawings were submitted on filing.

## THE RELEVANT SECTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

> RETURN POSTCARD
>
> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by
> enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.
>
> The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.
>
> The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.
>
> Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO.

## ANALYSIS

It is noted that the electronic file contains 22 pages of drawings, consisting of Figures 1-9 and 12-26. Figures 10-11 have not been located in the electronic file.

Obviously, the degree on which applicants may rely on a postcard receipt to establish receipt of a particular item depends on the specificity of the itemization. Since the postcard indicates only that "drawings" were included on filing, the postcard gives no indication of how many pages were received.

The PTO file is the official record of all papers filed in this application. A review of the official file reveals that Figures 10-11 were not received on filing. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner's assertion that Figures 10-11 were included on filing is not more persuasive than the electronic file, and the postcard receipt which he prepared and submitted cannot be relied upon to establish that the missing figure was included on filing.

Regarding the transmittal letter, a copy of the same has not been located in either the petition or the original filing. Even if a copy of this letter was present in the electronic file, the information contained thereon could not be relied on to establish receipt of a particular figure, as a transmittal letter cannot stand in the place of a properly itemized postcard receipt.

As such, it appears that Figures 10-11 were not filed with the Office on October 5, 2005. For this reason, the petition cannot be granted.

## CONCLUSION

For these reasons, the petition is **DISMISSED**.

The petition fee of $400 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

OIPE will be notified of this decision so that the application may be processed with a filing date of October 5, 2005, using only the application papers which were filed on that date. Figures 10-11 will not be entered.

If Petitioner desires for the examiner to consider these page which were not submitted as part of the original disclosure, then Petitioner may submit these figures via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The 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

1 See MPEP 608.02(h) and 608.04.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Karl P. Hauck | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639238 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/242,972 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **844** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUL 0 3 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Adickes, Eric | : | |
| Application No. 11/242,998 | : | ON PETITION |
| Filed: October 4, 2005 | : | |
| Attorney Docket No. 15999.16.2 | : | |

This is a decision on the petition under 37 CFR §1.102(d), filed October 20, 2005, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

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

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

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

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

This matter is being referred to the Technology Center Art Unit 1775 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Mortell et al. :
Application No. 11/243,009 :
Filed: October 4, 2005 :
Attorney Docket No. TYCOM-006BCG2 :
For: AUTOMATED DRILL BIT :
RE-SHARPENING AND :
VERIFICATION SYSTEM :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 4, 2005.

The petition is **granted**.

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

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 petition fee of $200 has been charged to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**BRINKS HOFER GILSON &**
**LIONE/MARVELL**
**P.O. BOX 10395**
**CHICAGO IL 60610**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jody Greenberg et al | : | |
| Application No. 11/243,017 | : | DECISION GRANTING PETITION |
| Filed: October 3, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. MP0747 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on May 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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**P.O. BOX 10395**
**CHICAGO IL 60610**

MAILED

JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jody Greenberg, et al. | : | |
| Application No. 11/243,017 | : | DECISION GRANTING PETITION |
| Filed: October 3, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. MP0747 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, June 29, 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 August 19, 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 2831 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
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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JAN 23 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Peter J. Krebs et al. | : | DECISION |
| Serial No.: 11/243,043 | : | ON |
| Filed: October 4, 2005 | : | PETITION |
| For: IMPROVED TOLERATION IRON SUPPLEMENT COMPOSITIONS | : | UNDER 708.02, VI |

This is in response to the petition filed December 10, 2007, requesting that the above identified application be granted Special Status under Section 708.02, VI of the MPEP and 37 CFR 1.102c.

The petition has been considered and found to comply with the requirements set forth under the above noted section. Accordingly, the petition is granted.

The petition to **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 05/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sheng-Chung Chen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623481 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/243,047 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **961** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :
Barbara Blomberg et al :
Application No. 11/243,049 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 20794/0205585-US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 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 of Missing Requirements (Notice) mailed October 27, 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 28, 2005.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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666 FIFTH AVENUE
NEW YORK, NY 10103

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FEB 10 2006

**OFFICE OF PETITIONS**

In re Application of :
Frank Geshwind et al :
Application No. 11/243,054 : DECISION ON PETITION
Filed: October 4, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. NY-PSS 211-US2 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 6, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Inventor William G. Fateley's passport 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 2877 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Wofford, et al. :
Application No.: 11/243,056 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. 2004P16917US01 :

This is in response to the petition under 37 CFR 1.137(b) filed June 2, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on October 26, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $130.00 surcharge for the late filing of the same. A complete response was not received within the allowable period, and the application became abandoned on December 27, 2005.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Hecht, et al. :
Application No. 11/243,060 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 9794M :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 9, 2009.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed January 15, 2009. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on April 16, 2009. A Notice of Abandonment was mailed on May 12, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The petition fee of $1620 has been charged to Deposit Account No. 16-2480, as authorized.

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

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MICHAEL G. PETIT
P.O. BOX 91929
SANTA BARBARA, CA 93109-1929

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JAN 23 2006

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Russell Frieder et al | : | DECISION ON PETITION |
| Application No. 11/243,072 | : | TO MAKE SPECIAL UNDER |
| Filed: October 3, 2005 | : | 37 CFR 1.102 |
| Attorney Docket No. 05CAL1 | : | |

This is a decision on the petition under 37 CFR 1.102, filed December 23, 2005, to make the above-identified application special as set forth in M.P.E.P. § 708.02.

The petition is **DISMISSED**.

The Office is unable to review the instant petition on its merits because the petition fails to identify on what grounds the petitioner is requesting to make special under 37 CFR 1.102 (b), (c) or (d), which includes sections I-XII under MPEP 708.02. The conditions set forth in MPEP 708.02 include categories (i) Manufacture, (II) Infringement, (III) Health, (IV) Age, (V) Environmental Quality, (VI) Energy, (VII) Recombinant DNA, (VIII) Accelerated Examination, (IX) Superconductivity, (X) HIV/AIDS and Cancer, (XI) Countering Terrorism, and (XII) Biotechnology filed by Small Entities. Petitions to make special are accorded to applications meeting the requirements outlined in one of the categories as set forth in MPEP 708.02. 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 AU 3673 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

Enclosure: MPEP 708.02

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600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

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**AUG 0 4 2008**

In re Application of
Kuchibhotla, et al.
Application No. 11/243,102
Filed: October 4, 2005
Attorney Docket No. CS27852

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed February 6, 2008. Accordingly, this application became abandoned on May 7, 2008. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a proper reply in the form of the issue fee and the publication fee, an acceptable statement of the unintentional nature of the delay in responding to the February 5, 2008 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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John M. Johnson
Carter Ledyard & Milburn LLP
2 Wall Street
New York NY 10005

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JAN 13 2009

**OFFICE OF PETITIONS**

In re Application of :
Levin, et al. :
Application No. 11/243,105 : ON PETITION
Filed: October 3, 2005 :
Attorney Docket No. NEW60 003 :
For: COMMODITIES BASED SECURITIES AND SHIPPING CERTIFICATE THEREFOR

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2008 and supplemented on January 8, 2009, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to timely reply to the non-final Office action, mailed March 11, 2008, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on June 12, 2008. A Notice of Abandonment was mailed on December 17, 2008.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioners have not *specifically identified* a reply to the March 11, 2008 non-final Office action. Please identify the application number of the continuing application that is the reply.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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| Application No. 11/243,105 | Attorney Docket No. NEW60 003 |
|---|---|

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | |
|---|---|
| In re the Application of: | |
| Robert Allen Levin et al. | Confirmation No.: 6273 |
| Serial No.: 11/243,105 | Group Art Unit: 3691 |
| Filed: October 3, 2005 | Examiner: Ebersman, Bruce I. |
| For: COMMODITIES BASED SECURITIES AND SHIPPING CERTIFICATE THEREFOR | |

**PETITION FOR REVIVAL OF AN APPLICATION UNDER 37 C.F.R. 1.137(b)**

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit the present Reply under 37 CFR1.137(b)(1) to the Notice of Abandonment dated December 17, 2008 issued in Application Serial No. 11/243,105.

The present Reply is being made to revive Application Serial No. 11/243,105 for continuity purposes. Please debit the required Petition Fee of $1,620 from Deposit Account 50-2499.

Respectfully submitted,

Dated: December 22, 2008

By: /Keith D. Nowak/

Keith D. Nowak
Attorney for Applicant
Reg. No. 27,367
Carter Ledyard & Milburn LLP
New York, NY 10005
Telephone No.: (212) 238-8610
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12/22/2008 HMARZI1 00000054 502499 11243105
01 FC:1453 1620.00 DA

Adjustment date: 01/13/2009 CKHLOK
12/22/2008 HMARZI1 00000054 502499 11243105
01 FC:1453 1620.00 CR

01/13/2009 CKHLOK 00000007 502499 11243105
01 FC:1453 1620.00 DA

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Alexandria, VA 22313-1450
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KEITH D. NOWAK
CARTER LEDYARD & MILBURN LLP
2 WALL STREET
NEW YORK NY 10005

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Levin, et al.
Application No. 11/243,105
Filed: October 3, 2005
Attorney Docket No. NEW60 003
For: COMMODITIES BASED SECURITIES AND SHIPPING CERTIFICATE THEREFOR

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed January 26, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed March 11, 2008, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on June 12, 2008. A Notice of Abandonment was mailed on December 17, 2008.

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 continuing application No. 12/207,995, filed September 10, 2008.

After the mailing of this decision, the application will be returned to Files Repository.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Youichi Akasaka | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623798 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,107 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **860** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FROST BROWN TODD LLC
2200 PNC CENTER
201 E FIFTH STREET
CINCINNATI OH 45202

In re
Lee
Application No. 11/243,119
Filed: October 4, 2005
Patent No. 7,371,121
Issued: May 13, 2008

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 9, 2009.

The fee deficiency submission under 37 CFR 1.28 of $2395 is hereby **accepted.**

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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April 2006

Gene Scott
PATENT LAW & VENTURE GROUP
3140 Red Hill Avenue
Suite 150
Costa Mesa, CA 92626-3440

APR 1 8 2006

In re Application of:
ARAM TANIELIAN ET AL.
Serial No.: 11/243,161
Filed: 03 October 2005
Docket: Taniel.A-03
Title: FABRICATION OF SMALL SCALE MATCH BI-POLAR TVS DEVICES HAVING REDUCED PARASITIC LOSSES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on 18 March 2006 to make the above-identified application special for accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that all claims are directed to a single invention or if the Office determines that all the claims presented are not obviously directed to a single invention, that applicant will make an election without traverse as a prerequisite to the grant of special status; c) a statement that a pre-examination search was made, including classes and subclasses searched; d) copies of each reference deemed to be the most closely-related references uncovered in the pre-examination search; and e) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention or if the Office determines that all the claims presented are not obviously directed to a single invention, that applicant will make an election without traverse as a prerequisite to the grant of special status; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a 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)-(d) are considered to have been met. However, the petition fails to meet the requirements of MPEP § 708.02(VIII)(e) because the detailed discussion does not point out with the particularity required by 37 CFR 1.111 (b) and (c) how the claimed subject matter is distinguishable over the references.

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." The petition does not specifically point out how the language of the claims distinguishes over each of the cited references. For example, petitioner alleges that Matteson et al. (US Pat. No. 6,867,436) "does not teach the fabrication of pairs of silicon n/p+/n or p-/n+/p oxide passivated mesa diodes mounted on an inert substrate with a silicon wafer upon which the mesa diodes are fabricated bonded to the inert substrate...". However, claims 1 and 2 do not recite this language nor do they include limitations such as "passivated mesa diodes" or "an inert substrate." Therefore, the petition does not clearly set forth how the language of the claims patentably distinguishes over the prior art. For these reasons, the petition fails to meet the requirement of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

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

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include a detailed discussion pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claim language distinguishes over the references.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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MICHAEL TOBIAS
1629 K ST NW
SUITE 300
WASHINGTON, DC 20006

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mamoru Uchikawa | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7654196 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,178 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEMICONDUCTOR COMPONENTS INDUSTRIES, LLC
INTELLECTUAL PROPERTY DEPT. - A700
5005 E. MCDOWELL ROAD, P.O.BOX 62890
PHOENIX, AZ 85082

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : James P. Letterman JR. | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7602054 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,195 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **941** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DEAN A. CRAINE P.S.
SUITE 140
400 - 112TH AVE NE
BELLEVUE WA 98004

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Kimi L. Boal et al. :
Application No. 11/243,199 : DECISION ON PETITION
Filed: October 4, 2005 :
Attorney Docket No: **BOJY101** :

This is a decision on the petition, filed February 15, 2007, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on October 4, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

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

This matter is being referred to Technology Center 3711 for further 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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United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|---|---|---|---|
| 11/243,199 | 10/04/2005 | Kimi L. Boal | BOJY 101 |

**CONFIRMATION NO. 6510**

DEAN A. CRAINE P.S.
SUITE 140
400 - 112TH AVE NE
BELLEVUE, WA 98004

Date Mailed: 04/25/2007

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

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

The projected publication date is 08/02/2007.

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

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

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

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

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

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GFD PATENTS, LLC
P.O. BOX 752
CLIFTON PARK NY 12065

*In re* Application of
Brooks, Martin S.
Serial No.: 11/243,213
Filed: Oct. 4, 2005
Docket: Broo-1086
Title: POWER HANDLE AND METHOD OF USING SAME

DECISION ON PETITION TO WITHDRAW FINALITY OF REJECTION UNDER 37 CFR 1.181

This is a decision on the petition filed on Sep. 6, 2007 by which petitioner requests withdrawal of the finality of the Office Action dated Jul. 31, 2007. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Analysis of Application Record

A review of the relevant prosecution history shows that the applicant on Dec. 14, 2006 filed a response to the restriction requirement of Nov. 14, 2006. On Feb. 2, 2007, the examiner rejected, inter alia, claims 1-5, 21-26 and 28-30 under 35 U.S.C. 103 as unpatentable over Wolf (U.S. Pat. 3,156,143) in view of Peterson (U.S. Pat. 1,744,413). In response to the non-final Office action, on May 2, 2007 the applicant filed an amendment to claims 1 and 4 and other claims. In particular, the applicant amended independent claim 1 by adding certain new limitations. Dependent claim 2 remains unchanged. On Jul. 31, 2007, the examiner issued a final Office action, inter alia, rejecting claims 1-4, 21-26 and 28-30 under 35 USC 102(b) as anticipated by Wolfe (U.S. Pat. 3,156;143) and as anticipated by Peterson et al. (U.S. Pat. 1,744,413). On Sep. 6, 2007, the applicant filed the current petition requesting withdrawal of the finality of the Office action of Jul. 31, 2007. The petitioner is of the opinion that the final Office Action is premature because two new grounds of rejection were not necessitated by the amendment filed on May 2, 2007. In particular, petitioner argues that original dependent claim 2 was not amended. Therefore, two new grounds of rejection for claim 2 in the final rejection render the final rejection premature. Petitioner also argues that two new grounds of rejection of claim 2 as being allegedly anticipated by either Wolf or Petersen under 35 U.S.C. § 102(b) could not have been necessitated by applicant's amendment of claim 1 because the examiner has used the same argument in verbatim to reject claims 1-4, 21-26 and 28-30 as being anticipated under 35 U.S.C. § 102(b) over Wolf or Petersen as the examiner used to reject claims 1-5, 21-26 and

28-30 under 35 U.S.C. § 103(a) over Wolf in view of Petersen as unpatentable in the earlier office action.

A review of the examiner's first Office action of Feb. 2, 2007 and the final rejection of Jul. 31, 2007 confirms petitioner's arguments. In accordance with MPEP 706.07, before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied. In this case, prior to the amendment of May 2, 2007, the examiner did not develop a clear issue in the new rejection with respect to the claims as amended. Therefore, the finality of the last Office action mailed Jul. 31, 2007 must be withdrawn.

Conclusion

Based on the analysis of the record, the examiner's finality of the last Office action was in error. Accordingly, the requested relief to withdraw the finality of Office action of Jul. 31, 2007 is granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3723 waiting for response to the Office action of Jul. 31, 2007. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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Paper No. None

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Matthew Wayne Stafford | : | |
| Application No. 11/243,217 | : | DECISION ON PETITION UNDER |
| Filing Date: October 4, 2005 | : | 37 C.F.R. §1.10(c) |
| Attorney Docket No. CING-0178/C05-0103 | : | |
| Title: RESOLUTION OF IP ADDRESSES ASSOCIATED WITH A TELEPHONE NUMBER UTILIZING QUERY FLAGS | : | |

This is a decision on the petition under 37 C.F.R. §1.10(c), filed January 9, 2006, requesting the according of a filing date of October 4, 2005 to application number 11/243,217.

The application was deposited on October 4, 2005. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 11/243,217 had been accorded a filing date of October 5, 2005.

With the present petition, Petitioner has included a copy of the Express Mail label number EV631243105US[1].

Petitioner has alleged that the application was deposited on October 4, 2005, and the Patent Office has incorrectly assigned a filing date of October 5, 2005 to the present application. Petitioner has included a copy of the Express Mail label, and it

1 The Provisional Application for Patent cover sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

is noted that it bears a "date accepted" of November 4, 2005, and a date-stamp of October 4, 2005.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was equally inconclusive.

Although the application received a filing date of October 5, 2005, the evidence is convincing that the application papers were filed on October 4, 2005, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of October 4, 2005.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 4, 2005, as well as the mailing of a corrected filing receipt.

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

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

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United States Patent and Trademark Office
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NOV 16 2005

Director's Office
Group 3700

Charles F. Meroni, Jr.
P.O. Box 309
Barrington, Ilinois 60011

In re application of
Alexander W.

Serial Number: 11/243,219
Filed: October 04, 2005

**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**

For: **MARKER ASSEMBLY, MARKING METHOD AND KIT**

This is a decision on the petition filed on October 04, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

**Summary:** Decision on Petition **GRANTED**.

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

rt: 11/16/05

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RAMA NATH
2530, QUAIL RUN
LANSDALE PA 19446

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JUN 21 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Venugopal | : | |
| Application No. 11/243,225 | : | ON PETITION |
| Filing Date: October 4, 2005 | : | |
| Attorney Docket No.: SYSE-05-1 | : | |

This is a decision on the petition, filed November 16, 2005, to accord the above-identified application a filing date of October 4, 2005 with Figure 6 as part of the disclosure of application.

The petition is hereby **DISMISSED**.

The application was filed on October 4, 2005. On November 1, 2005, the Office of Initial Patent Examination ("OIPE") mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice") indicating that the application had been accorded a filing date but that Figure 6 appeared to be omitted from the application as filed.

The Notice indicated that the filing date of the application would be the date of receipt of the omitted item and further indicated that any assertion that the drawings were submitted or were not necessary for a filing date must be by way of petition.

Petitioner herein neither admits nor denies that Figure 6 was omitted from the application papers as filed. Instead, petitioner argues that Figure 6 does not constitute new matter, and, therefore, the original filing date of 10/4/2005 should be accorded the application. Further, petitioner argues that if the application is not accorded a filing date of 10/4/2005, applicant requests the option of deleting the description corresponding to figure 6 during prosecution or by way of a preliminary amendment. Petitioner has provided a copy of Figure 6.

Petitioner has provided no evidence to establish that Figure 6 was present in the Office on October 4, 2005, such as a date stamped itemized postcard acknowledging Office receipt of the item in question. MPEP 503

Accordingly, the application is entitled to a filing date of October 4, 2005 without Figure 6 as part of the disclosure of application.

Petitioner is advised to promptly submit a preliminary amendment canceling reference to Figure 6 prior to the issuance of the first Office action on the merits to avoid further delays in examination.

Or, if petitioner desires to have Figure 6 made part of the disclosure of application, petitioner is advised to promptly submit a renewed petition requesting a later filing date of November 16, 2005, the date that Figure 6 was presented.

The petition fee submitted herewith will not be refunded as the petition was not necessitated due to Office error.

This application is being directed to the OIPE for further processing with a filing date of October 4, 2005, without entry of Figure 6 into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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JAN 26 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| John F. Taylor | : | |
| Application No. 11/243,238 | : | DECISION ON PETITION |
| Filed: October 4, 2005 | : | |
| Attorney Docket No. TJJ-20002/01 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly and timely reply to the final Office action mailed May 29, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 30, 2008. A Notice of Abandonment was mailed December 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114 (previously filed on July 14, 2008).; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

The file is now being forwarded to Technology Center 2612 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition and the Amendment previously filed July 14, 2008.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of :
Liana Gold :
Application No. 11/243,254 : DECISION ON PETITION
Filed: October 4, 2005 : TO WITHDRAW
Attorney Docket No. **PEA-001.01** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 15, 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 Beth E. Arnold on behalf of all attorneys of record who are associated with Customer No. 25181.

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

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

All future correspondence will be directed to the first named inventor Liana Gold at the address list below.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Liana Gold
2465 NE 209 Terrace
Aventura, FL 33180

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/243,254 | 10/04/2005 | Liana Gold | PEA-001.01 |

**CONFIRMATION NO. 8112**

**POWER OF ATTORNEY NOTICE**

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

*OC000000038455563*

Date Mailed: 10/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2009.

- 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.

/jlburke/

---

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

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**INTELLECTUAL PROPERTY GROUP, FLUKE PATENTS**
**FREDRIKSON & BYRON, P.A.**
**200 SOUTH 6TH STREET, SUITE 4000**
**MINNEAPOLIS, MN 55402**

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of :
Steven Ignatowicz :
Application No. 11/243,258 : DECISION ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 56581.6.54.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 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 September 11, 2009, as required by the Notice of Allowance and Fee(s) Due mailed June 11, 2009. Accordingly, the application became abandoned on September 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Renner, Kenner, Greive, Bobak, Talyor & Weber
Fourth Floor
First National Tower
Akron, OH 44308-1456

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Junichi Sekiguchi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7628279 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,268 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **890** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of
Martinez et al.
Application No.11/243,271
Filed: October 3, 2005
Attorney Docket Number: MTZ 301
Title of Invention: Articulated Foldable Sandals

DECISION ON PETITIONS
UNDER 37 CFR 1.48, 1.47
AND 1.183

This is in response to the petitions filed under 37 CFR §§1.47, 1.48 and 1.183 filed on April 24, 2006.

The petition filed under 37 CFR 1.48 is **GRANTED**.
The petition filed under 37 CFR 1.47 is **GRANTED**
The petition filed under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on October 3, 2005, with an executed oath or declaration on filing naming inventor Benjamin Martinez as the sole inventor. Petitioner now seeks to amend the inventorship for the above-identified application to add inventor Jeff Miller.

**Petition Under 37 CFR 1.48**

A grantable petition under 37 CFR 1.48 (a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or §1.47; (4) the processing fee set forth in §1.17(i); and (5)

if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Petitioner has met the requirements of 37 CFR 1.48 with the filing of a grantable petition under 37 CFR 1.183.

**Petition Under 37 CFR 1.47**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The non-signing inventor's failure to execute the application papers and the explicit written refusal provided with petition sufficiently establishes that inventor Miller 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.

**Petition Under 37 CFR 1.183**

The appropriate remedy to address the lack of statement of deceptive intent is to file a petition under 37 CFR 1.183 seeking waiver of the requirement of the reexecution of the supplemental declaration. See MPEP 201.03. 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 adequately establishes an extraordinary situation. Petitioner has established inventor Miller has refused to execute the lack of deceptive intent statement.. Further petitioner has provided a statement from the assignee of record. Accordingly the petition is granted.

This application will be referred to Technology Center 3700 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

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 |
|---|---|---|---|---|---|---|---|
| 11/243,271 | 10/03/2005 | 3728 | 775 | MTZ 301 | 4 | 27 | 4 |

**CONFIRMATION NO. 6464**
**CORRECTED FILING RECEIPT**
*OC000000020016354*
*OC000000020016354*

23581
KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

Date Mailed: 08/14/2006

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

**Applicant(s)**

Benjamin Martinez, Portland, OR;
Jeff Miller, Portland, OR;

**Assignment For Published Patent Application**

Viamerica Enterprises LLC

**Power of Attorney:** The patent practitioners associated with Customer Number **23581**.

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/649,989 02/04/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/25/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/243,271**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

** SMALL ENTITY **

**Title**

Articulated foldable sandals

**Preliminary Class**

036

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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## 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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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : James A. Cummings | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7568411 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,279 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **773** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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19 JUN 2009

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BAYER HEALTHCARE LLC
P.O.BOX 390
SHAWNEE MISSION KS 66201

| | |
|---|---|
| In re Application of | : |
| FRAATZ et al. | : |
| Application No. :11/243,293 | : DECISION GRANTING PETITION |
| Filed: 12 September 2005 | : UNDER 37 CFR 1.55 and 1.78(a)(3) |
| Attorney Docket No. LeA 36367 | : |

This is a decision on the petition, filed 06 November 2008, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of the filing date of PCT international patent Application No. PCT/EP2004/02318, filed 06 March 2004. Such petitions are hereby GRANTED. The petition is also being treated under 37 CFR 1.55 as a petition to add an unintentionally delayed claim for foreign priority to German application 10312346.6, filed 20 March 2003.

**As to the benefit claim under 37 CFR 1.78(a)(3):**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in the Application Data Sheet, as provided by 37 CFR 1.78(a)(2)(iii); and (2) the surcharge fee required by 37 CFR

1.17(t) has been submitted. With respect to Item (3), Petitioner states that "the entire delay in filing the required documents claiming priority to the PCT application until the filing of a grantable petition under 37 CFR 1.55 was unintentional." This statement has been construed to mean that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional." If this is incorrect, petitioner must notify the USPTO immediately. As so construed, the petition contains a proper statement of unintentional delay satisfying 37 CFR 1.78(a)(3). Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

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

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

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

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

The present application claims the benefit under 35 U.S.C. 120 of a non-provisional application which was filed on 06 March 2004, which is after November 29, 2000 and within 12 months of the filing date of the foreign application to which benefit is now being claimed. On 31 October 2005, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

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

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.§§ 120 and 365(c) and 37 CFR §§1.78(a)(1), (a)(2) and 35 U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.***

This matter is being referred to Technology Center AU 1611 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d) and the claim for domestic benefit under 35 U.S.C. 120 and 365(c).

Any inquiries directly pertaining to this matter may be directed to Cynthia Kratz at (571) 272-3286.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ashok V. Krishnamoorthy | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619312 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,300 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LISA K. JORGENSON, ESQ.
STMICROELECTRONICS, INC.
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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AUG 1 4 2007

OFFICE OF PETITIONS

In re Application of :
Serge F. Fruhauf et al :
Application No. 11/243,329 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 05-S-018 :

This is a decision on the petition, filed August 9, 2007 and resubmitted on August 10, 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 June 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

Telephone inquiries should be directed to 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 2819 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
**MUNCK BUTRUS, P.C.**
**P.O. BOX 802432**
**DALLAS, TEXAS 75380**

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/243,350 | 10/04/2005 | V.R. Kishore Chintalapati | 14917.522USC1 | 2123 |

27488 7590 01/27/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

| EXAMINER | |
|---|---|
| DHARIA, RUPAL | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2141 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/27/2008 | PAPER |

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

MAILED

JAN 28 2008

TECHNOLOGY CENTER 2100

*In re* Application of:
V.R. CHINTALAPATI et al.
Appl. No.: 11/243,350
Filed: October 4, 2005
For: EXTENDED HTTP ERROR CHANNEL

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 14 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 14 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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ESCHWEILER & ASSOCIATES LLC
629 EUCLID AVENUE, SUITE 1000
NATIONAL CITY BUILDING
CLEVELAND, OH 44114

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SEP 04 2009

OFFICE OF PETITIONS

In re Application of :
Werner Boning :
Application No. 11/243,352 : DECISION ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. JANNP109WOUS :

This is a decision on the petition, filed July 8, 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 Notice of Panel Decision from Pre-Appeal Brief Review (Notice) mailed October 24, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 26, 2009.

Petitioner asserts that the Notice dated October 24, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy requirements (2) and (3) above.

Accordingly, absent the required evidence to establish non-receipt of the Notice of October 24, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $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 April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Board of Patent Appeals and Interferences.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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CLEVELAND, OH 44114

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JAN 29 2010

OFFICE OF PETITIONS

In re Application of :
Werner Boning :
Application No. 11/243,352 : DECISION ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. JANNP109WOUS :

This is a decision on the renewed petition, filed November 4, 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**.

This application was held abandoned for failure to reply to the Notice of Panel Decision from Pre-Appeal Brief Review (Notice) mailed October 24, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 26, 2009.

Petitioner asserts that the Notice dated October 24, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy requirement (3) above.

Specifically, the screen shot provided by petitioner fails to provide any showing of where the non-received Office action would have been entered had it been received. Additionally, there is nothing legible in the screen shot provided which would relate the screen shot to the instant application (*i.e.*, docket number or application serial number).

Accordingly, absent the required evidence to establish non-receipt of the Notice of October 24, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $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).

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."

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

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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 April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Board of Patent Appeals and Interferences.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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CLEVELAND, OH 44114

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MAY 14 2010

OFFICE OF PETITIONS

In re Application of :
Werner Boning :
Application No. 11/243,352 : DECISION ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. JANNP109WOUS :

This is a decision on the renewed petition, filed March 4, 2010, 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 Notice of Panel Decision from Pre-Appeal Brief Review (Notice) mailed October 24, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 26, 2009.

Petitioner asserts that the Office action dated October 24, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Board of Appeals and Interference at their hotline 571-272-9797.

This application is being referred to the Technology Center for re-mailing the Notice of October 24, 2008. The period for reply will run from the mailing date of the Notice.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Clay Tornquist | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590497 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,354 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **699** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Cheruvanky, et al. :
Application No. 11/243,361 : DECISION ON PETITION
Filed: October 3, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 020766-000610US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 9, 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 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 comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3), an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

By mail: Mail Stop PETITIONS
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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 Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kevin Norman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7588682 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,367 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **899** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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EDWARD P. DUTKIEWICZ, ESQ.
EDWARD P. DUTKIEWICZ, P.A.
640 DOUGLAS AVENUE
DUNEDIN, FL 34698-7001

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SEP 15 2006

**OFFICE OF PETITIONS**

In re Application of

James Sommers

Application No. 11/243,368

Filed: October 4, 2005

Attorney Docket No. SD107/01

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 7, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed March 13, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 14, 2006.

Corrected drawings were received on August 7, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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** | : Willi Kussel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7659832 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,384 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**MARGER JOHNSON & MCCOLLOM, P.C.**
**210 SW MORRISON STREET, SUITE 400**
**PORTLAND OR 97204**

**MAILED**

**OCT 15 2009**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Bae et al. | : | |
| Application No. 11/243,397 | : | DECISION ON PETITION |
| Filed: October 3, 2005 | : | |
| Attorney Docket No. 2522-126 | : | |

This is a decision on the petition under 37 CFR 1.59(b), filed September 30, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document entitled Response to Notice of Non-Compliant Amendment, filed September 4, 2009, be expunged from the record. The petition indicates that the September 4, 2009 Response was filed under the mistaken belief that responsibility for the above-identified application had been transferred to the law firm of Harness, Dickey, & Pierce, P.L.C. However, responsibility was not transferred and remained with the law firm of Marger Johnson & McCollom, P.C.

The petition is deficient because it was filed by a third party to the *ex parte* prosecution of the above-identified application and that third party lacks standing to request expungement. The petition is signed by John A. Castellano, Reg. No. 35,094, of Harness, Dickey, & Pierce, P.L.C. who is not an attorney of record and does not represent the applicants or the assignee. In particular, neither the patent statute nor its implementing regulation confers a right upon a third party to intervene on the matters raised in the petition. Information submitted to the Office by a third party regarding a patent application must be consistent with 35 USC § 122(c); 37 CFR §§ 1.99, 1.291 and 1.292; and/or the standards discussed in MPEP § 1901, as discussed in the USPTO *Official Gazette* Notice published 22 April 2003. The actions requested by the third party here are not specifically authorized by statute or regulation, and the communication is not a proper submission under 35 USC § 122(c), 37 CFR § 1.99, 1.291 and 1.292 and/or the standards discussed in MPEP § 1901. Since petitioner lacks standing, the Office will not act as requested.

Nevertheless, although the September 4, 2009 Response was signed by a registered patent attorney, not of record, the signing attorney was not serving in a representative capacity. Therefore, the September 4, 2009 Response was not properly signed and has no legal effect. See 37 CFR 1.33(b). Accordingly, the examiner should disregard the September 4, 2009 Response as if it had not been actually filed, inasmuch as it has no legal effect. See MPEP 714.21. The

examiner should consider the Amendment filed September 3, 2009 and signed by registered practitioner Kurt Eaton of Marger Johnson & McCollom, P.C.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Harness, Dickey, & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hideki Ando | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7609938 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,400 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT,GREELEY, RUGGIERO & PERLE
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of :
russell Hudyma et al :
Application No. 11/243,407 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 637.0030USQX :

This is a decision on the petition, filed February 6, 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 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/243,414 | 10/04/2005 | 3682 | 1550 | 593458002US | 4 | 31 | 3 |

**CONFIRMATION NO. 9263**

**CORRECTED FILING RECEIPT**

*OC000000017399909*

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Date Mailed: 11/04/2005

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)**

Allen Clarke, Lincoln, UNITED KINGDOM;
Paul Smith, Lincoln, UNITED KINGDOM;

**Assignment For Published Patent Application**

Minebea Co., Ltd., Nagano, JAPAN

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

UNITED KINGDOM GB0422182.6 10/06/2004

**If Required, Foreign Filing License Granted:** 10/25/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/243,414**

**Projected Publication Date:** To Be Determined - pending completion of Missing Parts

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Bearing assembly

**Preliminary Class**

384

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Mari Sugihara | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643137 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,425 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **324** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

In re Application of :
Zhibo ZHAO et al. :
Application No. 11/243,467 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. DP-312400 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application mailed October 24, 2005, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 26, 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 a response to the Notice; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of October 24, 2005 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. A form for complying with the provisions of 37 CFR 1.137(b) may be found on the USPTO.gov website (Form No. PTO/SB/64).

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to OIPE for appropriate action.

David Bucci
Petitions Examiner
Office of Petitions

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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BOULEVARD, 7TH FLOOR
ARLINGTON, VA 22203

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APR 23 2007

OFFICE OF PETITIONS

In re Application of :
Jonathan Gorrell et al :
Application No. 11/243,476 : DECISION GRANTING PETITION
Filed: October 5, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2549-0058 :

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 February 12, 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 2881 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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JUL 10 2006

**OFFICE OF PETITIONS**

In re Application of
Retucci
Application No. 11/243,514
Filed: October 4, 2005
Attorney Docket No. 4666-052448
For: PRESENTATION FOLDER AND METHOD OF MAKING THE SAME

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

This decision is in response to the petition under 37 CFR 1.47(b), filed May 15, 2006.

The petition is dismissed.

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not signed by a proper party. No additional petition fee will be due when petitioner files a reconsideration petition. A reconsideration petition should be filed within two (2) months of the mail date of this decision to avoid abandonment.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by John R. Nestor. John R. Nestor has not provided an attorney registration number and a review of Office records does not reveal that a person named John R. Nestor has been assigned a registration number. John R. Nestor has not shown that he is an authorized representative of an assignee who has right to take action.

In short, John R. Nestor has not established that he is permitted to file amendments and other papers in this application.

In any reconsideration petition, petitioner is encouraged to a) file a reconsideration petition citing John R. Nestor registration number; or (b) submit an appropriate 3.73(b) statement on behalf of

the assignee establishing ownership of the invention, signed by a person authorized to act on behalf of the assignee (the person authorized to act on behalf of the assignee should be John R. Nestor and in this manner, the signature on instant petition will be ratified).

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: JOHN R. NESTOR, DIVISION MANAGER
INTERFORM CORPORATION
1901 MAYVIEW ROAD
BRIDGEVILLE, PA 15017

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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436 SEVENTH AVENUE
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Retucci | : | DECISION REFUSING |
| Application No. 11/243,514 | : | STATUS UNDER |
| Filed: October 4, 2005 | : | 37 CFR 1.47(b) |
| Attorney Docket No. 4666-052448 | : | |
| For: PRESENTATION FOLDER AND METHOD OF MAKING SAME | : | |

This is in response to the petition under 37 CFR 1.47(b), filed May 15, 2006 (certificate of mailing date May 9, 2006).

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 4, 2005 without an executed oath or declaration. Accordingly, on October 25, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on May 15, 2006 (certificate of mailing date May 9, 2006), *inter alia*, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by John R. Nestor, accompanies the petition. Mr. Nestor explains that the non-signing inventor, Jane M. Retucci, was mailed a copy of the declaration and assignment for the above-identified application, but did not return executed documents or respond to e-mail messages.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Petitioner lacks items (1), (2), and (6) set forth above.

As to item(1), an acceptable refusal to join on the part of the non-signing inventor has not been established.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, and a declaration. See MPEP 409.03(d). Inventor Retucci must have the complete application in her possession in order to make an informed decision as to whether she joins in its filing. The inventor cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Their signature on the declaration would obligate her, under penalty of "fine or imprisonment, or both" to particulars to which she can only attest after having had the opportunity to review the subject patent application.

Petitioner is informed that e-mail is not viewed the same as USPS mail. E-mailing is generally not accepted as a means to communicate with non-signing inventors. This is because the Office cannot know definitely if the message was received; people are not as careful in deleting e-mails as they are in throwing out mail as shown by bulk folder deletions and the fact that some people might not check e-mails frequently; the Office does not know if the recipient has the program to open the specific attachment; and PTO guidelines regarding accepting e-mail reflects the fact that the Office does not have the same confidence in e-mail as it does in USPS service.

The Office typically requires documentary evidence of successful e-mailing in the form of a response e-mail from the non-signing inventor in which the inventor acknowledges receipt of the e-mail and his ability to read the attachments.

Petitioner should send a copy of the application and the declaration to Ms. Retucci by U.S. mail.

When petitioner can show that the inventor was mailed or received the complete application and that she either refused to sign the declaration or would not respond to the request that she sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The undersigned cannot locate a declaration in the file.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the inventor's identifying information, signed by an authorized representative of the Rule 1.47 applicant on behalf of the inventor is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(b).

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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

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

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

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

Inquiries may be directed to the undersigned at (571)272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Retucci | : | DECISION REFUSING |
| Application No. 11/243,514 | : | STATUS UNDER |
| Filed: October 4, 2005 | : | 37 CFR 1.47(b) |
| Attorney Docket No. 4666-052448 | : | |
| For: PRESENTATION FOLDER AND METHOD OF MAKING SAME | : | |

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed October 23, 2006 (certificate of mailing date October 20, 2006).

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 4, 2005 without an executed oath or declaration. Accordingly, on October 25, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

Petitioner has submitted a declaration by Mr. John R. Nestor that explains that the non-signing inventor, Jane M. Retucci, was successfully mailed a copy of the application and declaration for the above-identified application, but did not return an executed declaration. Mr. Nestor states that the filing of the application is necessary to preserve the rights of Interform Corporation, assignee of any application stemming from Ms. Retucci's invention known as PRESENTATION

FOLDER AND METHOD OF MAKING SAME. An assignment evidencing this fact was filed in the first Rule 47(b) petition.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Petitioner lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration is signed by John R. Nestor, Division Manager of Interform Corporation.

A person having a title that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. In other words, it is not apparent that Mr. Nestor has authority to bind Interform Corporation. The declaration should be signed by an officer of the corporation (President, Vice-President, Secretary, Treasurer of Chief Executive Officer). A corporation may authorize any person to sign the application on its behalf. However, if the declaration is not signed by an attorney or officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. MPEP 409.03(b)

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(b).

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

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

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

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

Inquiries may be directed to the undersigned at (571)272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

COPY MAILED
DEC 18 2006
OFFICE OF PETITIONS

In re Application of
Retucci
Application No. 11/243,514
Filed: October 4, 2005
Attorney Docket No. 4666-052448
For: PRESENTATION FOLDER AND METHOD OF MAKING SAME

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

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 16, 2006 (certificate of mailing date November 14, 2006).

The petition under 37 CFR 1.47(b) is **granted**.

Petitioner has shown that the non-signing inventor, Jane M. Retucci, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of John R. Nestor, Division Manager of Interform Corporation, assignee of the invention, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but she failed to respond to the request that she sign the declaration. In addition, petitioner has shown that Interform Corporation has a proprietary interest in the above-identified application with the copy of the assignment document signed by Ms. Retucci that states that Interform Corporation owns all rights in the invention. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center A.U. 3722 for examination in due course.

Inquiries may be directed to the undersigned at (571)272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JANE M. RETUCCI
309 MCKEE ROAD
WASHINGTON, PA 15301

COPY MAILED
DEC 18 2006
OFFICE OF PETITIONS

In re Application of :
Retucci : LETTER
Application No. 11/243,514 :
Filed: October 4, 2005 :
Attorney Docket No. 4666-052448 :
For: PRESENTATION FOLDER AND METHOD OF MAKING SAME :

Dear Ms. Retucci:

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kenneth R. Schulz | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619541 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,528 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 05/18/2010

**Applicant** : Kenneth R. Schulz
**Patent Number** : 7619541
**Issue Date** : 11/17/2009
**Application No**: 11/243,528
**Filed** : 10/03/2005

: 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 **423** 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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www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Sanjiv Nanda | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590078 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,554 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COURTNEY STANIFORD & GREGORY LLP
10001 N DE ANZA BLVD SUITE 300
CUPERTINO CA 95014

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of :
Weng, et al. :
Application No. 11/243,571 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. BOSC.P012 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 13, 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 non-final Office action, mailed January 9, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on April 10, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

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

The application is being forwarded to Group Art Unit 2626 for consideration of the Amendment, filed July 13, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : March 26, 2009

**TO SPE OF** : ART UNIT 2616
**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/243573 /7184424
Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

*Magdalene Talley*
**Certificates of Correction Branch**
**703-308-9390 ext. 120**

**Thank You For Your Assistance**

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

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

**Comments:** Request for correction has been approved by Examiner.

Chi Pham — **SPE**

2471 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

COPY MAILED

JAN 19 2010

In re Patent No. 7,501,651 :
Issue Date: March 10, 2009 :
Application No. 11/243,595 : ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. 8111-4 (SIP040289US) :

This is a decision on the petition filed August 13, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction with a complete listing of all the Assignee's listed in the assignment.

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment filed on July 17, 2007 list the Assignee name as "Infineon Technologies AG not Infineon Technologies North America". The petition for complete listing of assignee on the front page of the patent cannot be granted until it lists the correct of Assignee's name on the petition and the request for certificate of correction.

Telephone inquiries concerning this decision on petition should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

6-28-08

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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,268,175
Ser. No. : 11/243,617
Inventor(s) : Hatase Yoshiteru, et. al.
Issued : September 11, 2007
Title : THERMOPLASTIC RESIN COMPOSITIONS FOR LASER WELDING AND ARTICLES FORMED THEREFROM
Docket No. : AD6651USCNT1

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);
a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and 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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

William H. Hamby
E.I. du Pont de Nemours and Company
4417 Lancaster Pike
Wilmington, Delaware 19805

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/243,642 | 09/30/2005 | 2131 | 1000 | RPS920050135US1 | 4 | 19 | 3 |

**CONFIRMATION NO. 9319**

**CORRECTED FILING RECEIPT**

*OC000000017638597*

25299
IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Date Mailed: 12/13/2005

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

**Applicant(s)**

William Gabriel Pagan, Durham, NC;

**Assignment For Published Patent Application**

INTERNATIONAL BUSINESS MACHINES CORPORATION, ARMONK, NY

**Power of Attorney:** The patent practitioners associated with Customer Number **25299**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/01/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/243,642**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Virus scanning in a computer system

**Preliminary Class**

726

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 Satellite Blvd., 2nd Floor
Duluth, GA 30096

Mail Date: 05/20/2010

| | | |
|---|---|---|
| **Applicant** | : Susan F. Carreon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639859 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/243,676 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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TRASK BRITT, P.C./ MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Chad A. Cobbley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644853 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,677 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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**NXP, B.V.**
**NXP Intellectual Property Department**
**M/S41-SJ**
**1109 McKay Drive**
**San Jose, CA 95131**

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FEB 0 1 2008

**OFFICE OF PETITIONS**

In re Application of :
Sudhir Aggarwal et al. :
Application No. 11/243,683 : ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. US018184-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 6, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on February 7, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 2617 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

cc: Mark A. Wilson
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

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1109 MCKAY DRIVE
SAN JOSE, CA 95131

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of :
Sudhir Aggarwal et al :
Application No. 11/243,683 : ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. US018184-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 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 September 22, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 23, 2008.

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 Technology Center AU 2617 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Mark A. Wilson
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

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MILWAUKEE, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Patrick M. Klein | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582267 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,694 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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14TH FLOOR
NEW YORK NY 10018

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Andry Randriamanantena :
Application No. 11/243,700 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No.: **744.1004** :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed July 3, 2008, which set a three (3) month shortened statutory period for reply. A response filed December 2, 2008, with a two month extension of time, did not place the application in condition for allowance. An advisory action was mailed January 23, 2009. Accordingly, this application is abandoned. The instant petition and this decision precede the mailing of the Notice of Abandonment.

**The Notice of Appeal filed February 6, 2009 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.**

The application is being forwarded to Technology Center 2834 for processing of the Notice of Appeal.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
Carrel W. Ewing, et al. :
Application No. 11/243,701 : DECISION ON PETITION
Filed: October 24, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 7273-70199-02 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 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 declaration statement signed by applicant Carrel W. Ewing. 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 2154 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of
Kim, et al.
Application No. 11/243,706
Filed: October 4, 2005
Attorney Docket No. AB-1499 US

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned March 22, 2008 for failure to timely submit a proper reply to the non-final Office action mailed December 21, 2007. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136 was submitted. Notice of Abandonment was mailed July 23, 2008.

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

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

This application is being referred to Technology Center AU 2871 for appropriate action by the Examiner in the normal course of business on the reply received July 17, 2008.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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MAY 27 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,488,752 | : | |
| CHACKALAMANNIL et al. | : | DECISION ON REQUEST FOR |
| Issue Date: February 10, 2009 | : | RECONSIDERATION OF |
| Application No. 11/243,708 | : | PATENT TERM ADJUSTMENT |
| Filed: October 5, 2005 | : | |
| Attorney Docket No. CV06208US01 | : | |

This is a decision on the LETTERS REGARDING PATENT TERM ADJUSTMENT DETERMINATION, filed November 6, 2008, and March 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be increased from three hundred seventy-seven (377) days to five hundred nineteen (519) days, based on the estimated issue date of February 24, 2009.

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

On February 10, 2009, the above-identified application matured into US Patent No. 7,488,752 with a patent term adjustment of 377 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment

due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), do not overlap as these periods do not occur on the same day.

Initially, the Office notes that patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as 142 days based on an estimated issue date of February 24, 2009. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 128 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), October 6, 2008, and ending on the date a patent was issued, February 10, 2009.

Patentees assert that in addition to this 128-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 377 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). A Restriction Requirement was mailed on December 17, 2007, 14 months and 377 days after the application was filed on October 5, 2005.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 0 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (128 days) and the period of Examination Delay (377 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 505 days, which is the sum of the period of Three Year Delay (128 days) and the period of Examination Delay (377 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 505 days (128 + 377 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 128 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 377 days is correct. At issue is whether patentees should accrue 128 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 377 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 128 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

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

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

In 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, October 5, 2005, to the date the patent issued on February 10, 2009. Prior to the issuance of the patent, 377 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 128 days for Office delay in issuing the patent overlap with the 377 days of Office delay. During that time, the issuance of the patent was delayed by 377 days, not 377 + 128 days. The Office took 14 months and 377 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 377 days of Office delay and the 0 days of applicant delay and the time allowed within the time frames for processing and examination, the application issued three years and 128 days after its filing date. The Office did not delay 377 days and then an additional 128 days. Accordingly, 377 days of patent term adjustment (not 377 and 128 days) was properly entered because the period of delay of 128 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 377 days attributable to grounds 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 three years to issue the patent.

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAN 11 2007

OFFICE OF PETITIONS

DAVID M. GLATFELTER
3237 SWAN DRIVE
VINELAND, NJ 08361

In re Application of Glatfelter :
Application No. 11/243,709 : Decision on Petition
Filing Date: October 5, 2005 :
For: Quickwall Integrated Building :
Shell System :

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

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Facts:

The Office mailed a non-final Office action on April 5, 2006.

The non-final Office action set a shortened statutory period for reply of three (3) months.

The shortened statutory period of time ended on July 6, 2006.

During the middle of July, petitioner became ill. Petitioner states he spent almost 3 weeks in bed. Petitioner lists four doctor visit dates in 2006. The dates are July 20, August 28, September 15, and October 6.

Petitioner was occupied during this time period with meeting a project deadline of December 25, 2006.

On September 5, 2006, petitioner realized his credit card was lost or stolen. An unknown third party subsequently began to illegally use the credit card and petitioner was required to spend a large amount of time correcting problems created by the actions of the third party.

A reply was never filed in response to the non-final Office action. Therefore, the application became abandoned as of July 6, 2006.

A Notice of Abandonment was mailed October 19, 2006.

The Law:

A grantable petition under 37 CFR 1.137(a) must be accompanied a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. See 35 U.S.C. § 133.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

Application of the law to the facts:

Petitioner asserts illness as a cause of the delay. The end of the shortened statutory time period was July 5, 2006. When exactly did petitioner become ill? If petitioner became ill after July 5, 2006, why had a reply not been filed prior to that date? What, if any, steps had petitioner taken prior to his illness to ensure a reply would be timely filed in response to the non-final Office action?

Petitioner has failed to establish petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between the beginning of the illness and October 5, 2006, the last date a reply could have been timely filed with payment of $510 for an extension of time. In fact, petitioner appears to have been able to work to meet a project deadline and take action to correct credit card problems during a large period of the time at issue.

On exactly what dates was petitioner's incapacitation of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office)?

Any request for reconsideration under the unavoidable standard should be accompanied by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during the above-mentioned time period.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner's time spent working to meet the project deadline appears to have resulted in petitioner lacking the time necessary to ensure the instant application did not become abandoned. However, a preoccupation with other matters, which are given precedence over the application, does not constitute unavoidable delay.[4]

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

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.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

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[4] "[T]he preoccupation of plaintiff's attorney with other legal matters or with moving his residence does not relieve him of the burden of complying with the Patent Office regulations. Plaintiff's delay due to his inadvertence or mistake does not constitute 'unavoidable' delay." Smith v. Diamond, 209 U.S.P.Q. (BNA) 1091 (D.C. Cir. 1981) (citing Potter v. Dann, 201 U.S.P.Q. 574,575 (D. D.C. 1978)). Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 398 (1993) ("In assessing the culpability of respondents' counsel, we give little weight to the fact that counsel was experiencing upheaval in his law practice at the time of the bar date.")

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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



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

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

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

Commissioner for Patents
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/243,717 | 10/5/2006 | Kuo-Ching Liu | NWAV 1002-9 |

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

DATE MAILED: August 29, 2006

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

This is in response to the petition under 37 CFR 1.138(d) filed on August 21, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Kaletus King
Pre-Grant Publication Division

DATE 8/22/07

APPLICATION NUMBER 11243729

DOC CODE Pet Dec

DOC DATE 8/22/07

# DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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**MICHAEL TSIPOV**
**3026 BRIGHTON 14TH STREET, APT # C5**
**BROOKLYN, NY 11235**

**COPY MAILED**

AUG 22 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tsipov, Michael | : | |
| Application No. 11/243,729 | : | ON PETITION |
| Filed: October 5, 2005 | : | |
| Title: SYSTEM CONTROLLING SHOWER WATER FLOW | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 5, 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 the applicant, along with a copy of his driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**TOWNSEND AND TOWNSEND AND CREW, LLP**
**TWO EMBARCADERO CENTER**
**EIGHTH FLOOR**
**SAN FRANCISCO CA 94111-3834**

**MAILED**

**JUN 17 2010**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Fumitake Mieno | : | |
| Application No. 11/243,735 | : | DECISION GRANTING PETITION |
| Filed: October 4, 2005 | : | UNDER 37 CFR 1.55(c) |
| Attorney Docket No. 021653-005100US | : | |

This is a decision on the petition under 37 CFR 1.55(c), filed October 29, 2009, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of Chinese Patent Application No. 200510029998.9, filed September 20, 2005.

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

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

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

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

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on October 4, 2005, which is after November 29, 2000 and within 12 months of September 20, 2005 (the filing date of the foreign application to which benefit is now being claimed). On October 29, 2009, an Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

A filing receipt accompanies this decision on petition.

This matter is being referred to Technology Center AU 1716 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to Alicia Kelley at (571) 272-6059. All other inquiries should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/243,735 | 10/04/2005 | 1716 | 1150 | 021653-005100US | 23 | 3 |

**CONFIRMATION NO. 6929**

**CORRECTED FILING RECEIPT**

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/17/2010

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)**

Fumitake Mieno, Shanghai, CHINA;

**Assignment For Published Patent Application**

Semiconductor Manufacturing International (Shanghai) Corporation, Shanghai, CHINA

**Power of Attorney:** The patent practitioners associated with Customer Number 20350

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

CHINA 200510029998.9 09/20/2005

**If Required, Foreign Filing License Granted:** 11/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/243,735**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Method for atomic layer deposition of materials using an atmospheric pressure for semiconductor devices

**Preliminary Class**

427

## 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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**CHARLES C. MCCLOSKEY**
**763 S. NEW BALLAS ROAD STE. 170**
**ST. LOUIS MO 63141**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Jones, Ronald | : | |
| Application No. 11/243,736 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | |
| Attorney Docket No. 262 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 1, 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 abstract, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**ATTN: STEPHANIE HAY**
**WARD/KRAFT, INC.**
**2401 COOPER STREET**
**P.O. BOX 938**
**FORT SCOTT, KS 66701**

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JUN 10 2008

OFFICE OF PETITIONS

In re Application of :
Jesse D. CRUM :
Application No. 11/243,738 : DECISION ON PETITION
Filed: October 5, 2005 : TO WITHDRAW
Attorney Docket No. 2005-27 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Michael C. Maier, has been revoked by the assignee of the patent application on March 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Future correspondence from the Office will be directed to the address indicated above until otherwise directed by the applicant.

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

Diane Goodwyn
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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www.uspto.gov

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michael James Kloberdans | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7653188 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,753 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**WHYTE HIRSCHBOECK DUDEK SC**
**555 EAST WELLS STREET**
**SUIT 1900**
**MILWAUKEE WI 53202**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Huimin Yang | : | |
| Application No. 11/243,784 | : | DECISION GRANTING PETITION |
| Filed: October 5, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. WHB-33296 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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*** April 9, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

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 IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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DISNEY ENTERPRISES, INC
C/O BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Doron Grinstein | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647625 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,795 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **783** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lynn Garfield
322 Browning Lane
Cherry Hill, NJ 08003

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Lynn Ellen Garfield | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7610877 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,800 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **711** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INTEL CORPORATION
c/o INTELLEVATE LLC
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Nice, et al. :
Application No. 11/243,808 : ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. P22604 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 21, 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 Office action mailed April 29, 2008. This Office action set a shortened statutory period for reply of one (1) month. No response having been received, the application became abandoned on May 30, 2008. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

The file is being forwarded to Group Art Unit 3728 for consideration of the Election filed November 21, 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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HOFFMAN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 2 0 2009

OFFICE OF PETITIONS

In re Application of
Krzysztof SOWINSKI, et al
Application No. 11/243,821
Filed: October 5, 2005
Attorney Docket No. 760-202/

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 18, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Anna-Lisa Gallo on behalf of all the attorneys of record associated with Customer No. 23869.

The attorneys of record associated with Customer No. 23869 have been withdrawn.

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

All future communications from the office will be directed to the address indicated below until otherwise properly notified by the applicant.

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

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KRZYSZTOF SOWINSKI
92 MAPLE AVENUE
WALLINGTON, NJ 07057

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Krzysztof Sowinski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655035 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,821 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **298** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**KLARQUIST SPARKMAN, LLP**
**121 SW SALMON STREET**
**SUITE 1600**
**PORTLAND OR 97204**

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of
Carrel W. Ewing et al.
Application No. 11/243,823
Filed: October 4, 2005
Attorney Docket No. 7273-70423-02

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 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 statement from the applicant Carrel W. Ewing declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2154 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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ADVANTEDGE LAW GROUP, LLC
922 W. Baxter Dr.
Suite 100
South Jordan, UT 84095

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Russell R. Stringham | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7631357 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,824 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1099** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HUGH R. KRESS
BROWNING BUSHMAN P.C.
SUITE 1800
5718 WESTHEIMER
HOUSTON TX 77057

COPY MAILED
APR 03 2007
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Paul Kotlarich | : | |
| Application No. 11/243,847 | : | DECISION GRANTING PETITION |
| Filed: October 5, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. KOTLARICH-1 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed *, 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;(2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of October 26, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

**KEVIN MARK KLUGHART**
**2516 LILLIAN MILLER PARKWAY**
**SUITE 115**
**DENTON TX 76210-7205**

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DEC 14 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Fugate, Sharon Kay | : | |
| Application No. 11/243,865 | : | ON PETITION |
| Filed: October 4, 2005 | : | |
| Attorney Docket No. SKF-2005-001 | : | |

This is a decision on the petition under 37 CFR §1.102(d), filed August 18, 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 II: Infringement.

The petition is **GRANTED.**

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

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

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

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

This matter is being referred to the Technology Center Art Unit 3600 for expedited prosecution.

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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**YANMING WANG**
**203 SUMMER STREET**
**MALDEN, MA 02148**

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SEP 17 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Yanming Wang | : | |
| Application No. 11/243,875 | : | DECISION ON PETITION |
| Filed: October 5, 2005 | : | |
| Title: Irrigating Solution for Neurosurgical Procedures | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 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 Restriction Requirement mailed November 28, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 29, 2007. A Notice of Abandonment was mailed June 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $770.00 and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1649 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

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DIW Aug-06

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

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AUG 15 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Wang, Wang, and Cheng | : | DECISION ACCORDING STATUS |
| Application No. 11/243,883 | : | UNDER 37 CFR 1.47(a) |
| Filed: 4 October, 2005 | : | |
| Atty Docket No. 021653-013900US | : | |

This is in response to the petition under 37 CFR 1.47(a) filed on 2 June, 2006 (certificate of mailing date 26 May, 2006).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Chao Wang, has refused to sign the declaration for after having been sent a copy of the application. Specifically, petitioners have shown, via the declaration of Richard T. Ogawa, that a copy of the application papers were sent to the non-signing inventor's last known address, but that the non-signing inventor failed to sign and return the declaration naming him as a joint inventor along with Runshun Wang and Lien Huang Cheng.

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*.

Petitioners should note that the fee for a petition under 37 CFR 1.47 is $200.00, not $130.00. The balance due will be charged to counsel's deposit account as authorized in the petition.

The application is being referred to Technology Center 2812 for examination due course.

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

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Alexandria, VA 22313-1450
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Chao Wang
18, Zhang Jiang Road
Pudong New Area
Shanghai 201203
PEOPLE'S REPUBLIC OF CHINA

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 11/243,883
Filed: 4 October, 2005
For: TECHNIQUES FOR REMOVAL OF PHOTOLITHOGRAPHIC FILMS

Dear Mr. Wang:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Runshun Wang et al. : LETTER REGARDING
Application No. 11/243,883 : PATENT TERM ADJUSTMENT
Filed: October 4, 2005 :
Attorney Docket No. 021653-013900US

This letter is in response to the "GOOD FAITH LETTER IN RESPONSE TO PATENT TERM ADJUSTMENT ERROR", filed May 8, 2009. Pursuant to their duty of good faith and candor to the Office, applicants note that the patent term adjustment of 475 days indicated on the Determination of Patent Term Adjustment, calculated by the USPTO is in error.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED.** The PTA at the time of the mailing of the notice of allowance is 348 days.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is three hundred forty-eight (348)days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On March 24, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 475 days. Applicants state that a response was due by January 26, 2006 to the Notice to File Missing Parts mailed October 26, 2005, however the response was not filed until June 2, 2006, thus an additional 127 days of Applicant delay should have been deducted from the total Patent Term Adjustment.

Pursuant to 37 CFR 1.704(b), a period of reduction of 127 days should have been entered. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on

> the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, applicants did fail to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice to File Missing Parts of Application mailed October 26, 2005 within the three-month period provided for in 37 CFR 1.704(b). Applicants did not file a complete and proper response until June 2, 2006. Accordingly, a period of reduction of 127 days is being entered for the period beginning on January 27, 2006, the day after the date that is three months after the date of mailing of the Notice, and ending on June 2, 2006, the date applicants' reply was filed.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is THREE HUNDRED FORTY-EIGHT (348) days (484 days of Office delay reduced by 136 (9 + 127) days of applicant delay).

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

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

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

Enclosure: Copy of Revised PALM Screen

Day : Friday
Date: 8/28/2009

# PALM INTRANET

Time: 16:00:07

| PTA Calculations for Application: 11/243883 | | | |
|---|---|---|---|
| Application Filing Date: | 10/04/2005 | PTO Delay (PTO): | 484 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 9 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 348 |
| PTO Delay Adjustment: | -127 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 49 | 08/28/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 127 | |
| 42 | 03/24/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 41 | 03/23/2009 | ISSUE REVISION COMPLETED | | | |
| 40 | 03/23/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 39 | 03/23/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 38 | 03/23/2009 | DOCUMENT VERIFICATION | | | |
| 37 | 03/20/2009 | NOTICE OF ALLOWABILITY | | | |
| 32 | 01/24/2009 | DATE FORWARDED TO EXAMINER | | | |
| 31 | 01/20/2009 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 30 | 01/24/2009 | DATE FORWARDED TO EXAMINER | | | |
| 29 | 01/20/2009 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | 3 | 26 |
| 28 | 01/24/2009 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 27 | 01/20/2009 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 26 | 10/17/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 25 | 10/14/2008 | FINAL REJECTION | | | |
| 24 | 07/07/2008 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 23 | 08/08/2008 | DATE FORWARDED TO EXAMINER | | | |
| 22 | 07/07/2008 | RESPONSE AFTER NON-FINAL ACTION | | 6 | 21 |
| 21 | 04/01/2008 | MAIL NON-FINAL REJECTION | 484 | | -1 |
| 20 | 03/29/2008 | NON-FINAL REJECTION | | | |
| 16 | 03/26/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 03/29/2007 | PG-PUB ISSUE NOTIFICATION | | | |
| 14 | 09/18/2006 | MISCELLANEOUS INCOMING LETTER | | | |

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|---|---|---|---|---|---|
| 13 | 08/15/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 12 | 08/15/2006 | MAIL-PETITION DECISION - GRANTED | | | |
| 11 | 06/02/2006 | PETITION ENTERED | | | |
| 10 | 06/19/2006 | APPLICATION DISPATCHED FROM OIPE | | | |
| 9 | 06/19/2006 | APPLICATION IS NOW COMPLETE | | | |
| 8 | 06/02/2006 | ADDITIONAL APPLICATION FILING FEES | | | |
| 7 | 06/02/2006 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 6 | 06/02/2006 | APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS | | | |
| 3 | 10/24/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 10/20/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/04/2005 | 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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Runshun Wang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598179 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/243,883 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **622** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP
195 MCDERMOTT ROAD
NORTH HAVEN CT 06473**

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Chris J. Ehr et al :
Application No. 11/243,886 : ON PETITION
Filed: October 4, 2005 :
Attorney Docket No. 2760PCTCIPCON2 :

This is a decision on the petition, filed June 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on May 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on June 22, 2006, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Francesco Sardone 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 act. However, if Mr. Sardone desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Sardone, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence

---

[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).

address of record.

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

This application is being referred to Technology Center Art Unit 2833 for processing of the request for continued examination under 37 CFR 1.114 filed June 22, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
**CARTER, DELUCA, FARRELL & SCHMIDT, LLP**
**445 BROAD HOLLOW ROAD**
**SUITE 225**
**MELVILLE, NEW YORK 11747**

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. _____

Date : June 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Chris J. Ehr et al
Application No. :11/243,886
Filed :October 4, 2005

The above-identified application has been assigned Patent No. 7,066,761 and an issue date of June 27, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 27, 2006:

"All reference to Patent No. 7,066,761 to Chris J. Ehr et al of Colorado for RETURN PAD CABLE CONNECTOR appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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A DIVISION OF TYCO HEALTHCARE GROUP LP
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NORTH HAVEN CT 06473

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chris J. Ehr, et al. | : | |
| Application No. 11/243,886 | : | DECISION GRANTING PETITION |
| Filed: October 4, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 2760PCTCIPON2(203-3011PC | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 12, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on October 13, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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**Albert B. Kimball, Jr.**
**BRACEWELL & PATTERSON L.L.P.**
**711 Louisiana, Suite 2300**
**Houston, TX 77002**

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AUG 2 6 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Marko S. Markov, et al. | : | |
| Application No. 11/243,896 | : | DECISION ON PETITION |
| Filed: July 10, 2009 | : | TO WITHDRAW |
| Attorney Docket No. 082386.000006 | : | FROM RECORD |
| | : | |

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 10, 2009.

The request is **APPROVED**.

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

The request was signed by Albert B. Kimball 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: **Marko S. Markov**
**135 Arielle, Suite E**
**Williamsville, NY 14221**

cc: **Electromagnetic Resources, Inc.**
**11418 Sagemorgan Drive**
**Houston, TX 77089**

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 |
|---|---|---|---|
| 11/243,896 | 10/05/2005 | Marko S. Markov | 082386.000006 |

**CONFIRMATION NO. 1079**

**POWER OF ATTORNEY NOTICE**

8176
ALBERT B. KIMBALL, JR.
BRACEWELL & PATTERSON L L P
711 LOUISANA SUITE 2300
HOUSTON, TX 77002

*OC000000037513843*

Date Mailed: 08/25/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2009.

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

/tswilliams/

---

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

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

**EUGENIO J. TORRES**
**1060 ASHFORD AVENUE, SUITE 1**
**SAN JUAN, PR 00907**

**COPY MAILED**

JAN 0 6 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Salich, Miguel A. | : | |
| Application No. 11/243,907 | : | ON PETITION |
| Filed: October 5, 2005 | : | |
| Title: ORTHODONTIC BRACKET | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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 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 3732 for action on the merits commensurate with this decision.

David Bucci for
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 27 2007

OFFICE OF PETITIONS

Eugenio J. Torres
1060 Ashford Avenue, Suite 1
San Juan PR 00907

In re Application of :
Miguel Salich :
Application No. 11/243,907 : ON PETITION
Filed: October 5, 2005 :
Title: Orthodontic Bracket

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of February 3, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. A three month extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 4, 2006. A Notice of Abandonment was mailed on October 11, 2006.

This Petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

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 3700 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Eugenio J. Torres
221 Plaza Building
Ponce De Leon Avenue
San Juan, Puerto Rico 00917

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/243,943 | 10/05/2005 | Kotaro Shima | JP920040140US1 | 2337 |

25259 7590 05/19/2008

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

| EXAMINER | |
|---|---|
| ALVESTEFFER, STEPHEN D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2175 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/19/2008 | ELECTRONIC |

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

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

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

RSWIPLAW@us.ibm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 16 2008

TECHNOLOGY CENTER 2100

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

In re Application of: Kotaro Shima.
Application No. 11/243943
Filed: October 5, 2005
For: OBJECT EDITING SYSTEM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed April 23, 2008, to make the above-identified application special.

The petition is **DENIED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S.

patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition failed item (4) above, since a first action on the merits was mailed to applicants on May 1, 2008.

Therefore, the Petition is **DENIED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/243,943 | 10/05/2005 | Kotaro Shima | JP920040140US1 | 2337 |

27431 7590 06/19/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

| EXAMINER | |
|---|---|
| ALVESTEFFER, STEPHEN D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2175 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/19/2008 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

MAY 16 2008

TECHNOLOGY CENTER 2100

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

In re Application of: Kotaro Shima.
Application No. 11/243943
Filed: October 5, 2005
For: OBJECT EDITING SYSTEM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed April 23, 2008, to make the above-identified application special.

The petition is **DENIED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S.

patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition failed item (4) above, since a first action on the merits was mailed to applicants on May 1, 2008.

Therefore, the Petition is **DENIED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 05/20/2010

| | | |
|---|---|---|
| **Applicant** | : Jeong-hoon Park | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636929 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/243,975 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 5/05/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11244028 Patent No.: 7501428 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**
**You can fax the Directors/SPE response to 571-270-9990**

*LAMONTE NEWSOME*
**Certificates of Correction Branch**
**703-308-9390 ext. 112**

**Thank You For Your Assistance**

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

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

**Comments:** _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/James O. Wilson/
Supervisory Patent Examiner, Art Unit 1624

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
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/244,057 | 10/06/2005 | Masaaki Ohashi | 125569 | 1697 |

7590 10/07/2008

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

| EXAMINER | |
|---|---|
| CHEN, CHIA WEI A | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/07/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
10/07/2008 NFARMER 0000164690

CHECK Refund Total: $500.00

Adjustment date: 10/07/2008 NFARMER
10/11/2005 MBERHE 00000011 11244057
02 FC:1111 -500.00 OP

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

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON, DC 20006

COPY MAILED
NOV 30 2006
OFFICE OF PETITIONS

In re Application of :
Ananda Chakrabarty et al :
Application No. 11/244,105 : DECISION ON PETITION
Filed: October 6, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 51282-00009 : 37 C.F.R. § 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed on June 15, 2006, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a satisfactory statement. Accordingly, the above-identified application has been accorded "special" status. Telephone inquiries concerning this decision should be directed to Petitions Examiner 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 1645 for 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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/244,111 | 10/06/2005 | Eung-Moon Yeom | P57348 | 2554 |

7590 01/30/2009

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

| EXAMINER | |
|---|---|
| PHILLIPS, REESA B | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 4171 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/30/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

/Nimi Farmer/

Patent Publication Branch
Office of Data Management

Refund Ref:
02/04/2009 NFARMER 0000166005

CHECK Refund Total: $1100.00

Adjustment date: 02/04/2009 NFARMER
10/11/2005 MAHMED1 00000040 11244111
02 FC:1111 -500.00 OP
04 FC:1201 -600.00 OP

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

**THE WEBB LAW FIRM, P.C.**
**700 KOPPERS BUILDING**
**436 SEVENTH AVENUE**
**PITTSBURGH PA 15219**

**COPY MAILED**

MAR 1 2 2009

**OFFICE OF PETITIONS**

In re Application of :
Bryan **ST. ONGE, et al.** :
Application No. 11/244,123 : NOTICE UNDER 37 CFR 1.28(C)
Filed: October 5, 2005 :
Attorney Docket No. **4326-053051** :

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

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

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

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.

Brian W. Brown
Petitions Examiner
Office of Petitions

WFEE mail 3/11/09

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| Application No. | : | 11/244,123 |
| Applicant | : | **Bryan ST. ONGE et al.** |
| Filed | : | October 5, 2005 |
| Title | : | **FUSION PROCESS FOR CONDUIT** |
| Group Art Unit | : | 1732 |
| Examiner | : | *Not yet assigned* |
| Confirmation No. | : | 3267 |
| Customer No. | : | 28289 |

**NOTIFICATION OF ERROR IN PAYMENT OF FEES AS A SMALL ENTITY**
**37 C.F.R. § 1.28(c)**

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

Sir:

1. On October 5, 2005, a small entity assertion was erroneously made in this application.

2. The assertion of small entity status in this application and the payment of various fees as a small entity were made in good faith.

3. It has now been discovered that status as a small entity was established in error under 37 C.F.R. § 1.27(a)(2)(i).

4. The various fees listed below were paid as a small entity.

I hereby certify that this correspondence is being electronically filed with the USPTO, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 12, 2007

10/12/2007
Date

Signature

Linda C. Seger
Typed Name of Person Signing Certificate

03/12/2009 CKHLOK 00000011 230650 11244123
01 FC:1461 1015.00 DA

5. Itemization of the Fees Erroneously Paid as Small Entity:

| Fees Erroneously Paid as a Small Entity | Fee Actually Paid as a Small Entity | Present Fee | Deficiency Owed* |
|---|---|---|---|
| Application Filing Fee paid on October 5, 2005 | $500.00 | $1030.00 | $530.00 |
| Supplemental Preliminary Amendment Additional (15) Total Claims Fee paid on August 6, 2007 | $375.00 | $750.00 | $375.00 |
| Supplemental Preliminary Amendment Additional (1) Independent Claims Fee paid on August 6, 2007 | $100.00 | $210.00 | $110.00 |
| **TOTAL** | **$975.00** | **$1990.00** | **$1015.00** |

*The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity.

Total deficiency owed: $1015.00

**Payment of Deficiency**

6. The total deficiency owed is paid as follows:

☒ To Credit Card ending in 1059 Expiration Date 08/2010

☒ Authorization is hereby made to charge any deficiency in fees to Deposit Account No. 23-0650. Please refund any overpayment to Deposit Account No. 23-0650.

Respectfully submitted,

THE WEBB LAW FIRM

By _____

Nathan J. Prepelka
Registration No. 43,016
Attorney for Applicants
436 Seventh Avenue
700 Koppers Building
Pittsburgh, PA 15219
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com

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

**KLARQUIST SPARKMAN, LLP**
**121 SW SALMON STREET**
**SUITE 1600**
**PORTLAND OR 97204**

COPY MAILED

JUN 20 2007

OFFICE OF PETITIONS

In re Application of
Carrel W. Ewing et al.
Application No. 11/244,132
Filed: October 4, 2005
Attorney Docket No. 7273-70418-02

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 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 statement from the applicant Carrel W. Ewing declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2154 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Shlesinger & Fitzsimmons
Suite 1323
183 East Main Street
Rochester NY 14604

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of
Page, et al.
Application No. 11/244,178
Filed: October 5, 2005
Attorney Docket No. N/A
For: EDIFICE PREWIRING ARRANGEMENT FOR IN-HOUSE SIGNAL CONSOLIDATION AND DISTRIBUTION SYSTEM

ON PETITION

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

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed March 10, 2006, which set a one month shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 11, 2006. No Notice of Abandonment has been mailed.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the March 10, 2006 Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 2831 for consideration of the election filed on November 16, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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AUG 2 9 2006
OFFICE OF PETITIONS

In re Application of Seung Won Shin et al. :
Application No. 11/244,188 : Decision on Petition
Filing Date: October 4, 2005 :
Attorney Docket No. 002013.P303 :

This is a decision on the petition filed November 14, 2005, under 37 CFR 1.10(c) to accord the above-identified application a filing date of October 4, 2005, instead of October 5, 2005.

The petition is **granted**.

Petitioner has shown the Express Mail mailing label number was placed on the application.

A review of the Express Mail mailing label indicates a "date-in" of October 4, 2005.

Petitioner has satisfied the requirements of 37 CFR 1.10(c) and the application will be accorded a filing date of October 4, 2005.

The Office of Initial Patent Examination will be informed of the instant decision and will accord the application a filing date of October 4, 2005.

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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ARTHI K TIREY ESQ
THE SHERWIN-WILLIAMS COMPANY
LEGAL DEPT
101 PROSPECT AVENUE NW
CLEVELAND OH 44115

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FEB 18 2010

OFFICE OF PETITIONS

In re Application of :
Dwight R. Huckby :
Application No. 11/244,205 : ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. 7981 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 15, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed March 3, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on June 4, 2009. The Office mailed a Notice of Abandonment on October 7, 2009.

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

The application is being forwarded to Group Art Unit 1797 for consideration of the Amendment, filed December 15, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No.

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BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER
FOURTH FLOOR
106 S. MAIN STREET
AKRON OH 44308

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Morgan et al. | : | DECISION ON |
| Application No. 11/244,208 | : | PETITION |
| Filed: October 5, 2005 | : | |
| Atty Docket No. 2795 | : | |

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION FOR PATENT PURSUANT TO 37 CFR §1.137, filed February 22, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit drawings within three months of the mailing date, September 5, 2006, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No drawings having been received, the above-identified application became abandoned on December 6, 2006. A courtesy Notice of Abandonment was mailed on January 8, 2007.

The petition included the required reply[1] in the form of submission of drawings; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[1] The Issue Fee and Publication Fee were timely paid on November 22, 2006.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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**GREGOR N. NEFF, ESQ.**
**489 5TH AVENUE, 14TH FLOOR**
**NEW YORK NY 10017**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| David T. McFadden | : | |
| Application No. 11/244,215 | : | DECISION ON PETITION |
| Filed: October 5, 2005 | : | |
| Attorney Docket No. 33187-2000 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed April 14, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on July 15, 2008. A Notice of Abandonment was mailed November 13, 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 statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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 $555.00, three-month extension of time fee submitted on October 8, 2009 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.

Further, the terminal disclaimer and $70.00 fee submitted on October 8, 2009 is unnecessary and will be refunded to petitioner's credit card in due course.

The request for the change in power of attorney has been accepted and the Notice enclosed.

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

This matter is being referred to Technology Center 1616 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

Enclosure: Notice of Acceptance of Power of Attorney

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/244,215 | 10/05/2005 | David T. McFadden | |

**CONFIRMATION NO. 4955**

GREGOR N. NEFF, ESQ.
489 5TH AVENUE, 14TH FLOOR
NEW YORK, NY 10017

**POA ACCEPTANCE LETTER**

*OC000000039082177*

Date Mailed: 12/03/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/08/2009.

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

/jolszewski/

---

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

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NOV 30 2005

In re Application of :
Wills LaCrosse et al. :
Serial No. 11/244,238 : DECISION ON PETITION
Filed: October 6, 2005 : TO MAKE SPECIAL
For: TRAVEL SUITCASE WITH SEAT :

Applicant's petition, filed October 6, 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.

Frederick R. Schmidt, Director
Technology Center 3700

John L. Welsh
Welsh & Flaxman, LLC
2000 Duke Street, Suite 100
Alexandria, VA 22314

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 10/22/08

**TO SPE OF** : ART UNIT 3662

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11244246 Patent No.: 7379013 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

**Lamonte M. Newsome**
**Certificates of Correction Branch**
**703-308-9390 ext. 112**

**Thank You For Your Assistance**

---

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

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

**Comments:** _____

_____

_____

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_____

**SPE** Thomas Black **Art Unit** 3662

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SCHWEGMAN, LUNDBERG & WOESSNER/BSC-CRM
PO BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

| | | |
|---|---|---|
| **Applicant** | : Jeffrey A. Von Arx | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668596 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/244,273 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1094** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DINSMORE & SHOHL LLP
One Dayton Centre, Suite 1300
One South Main Street
Dayton, OH 45402-2023

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JAN 18 2008

OFFICE OF PETITIONS

In re Application of Sezen et al. :
Application No. 11/244,310 : Decision on Petition
Filing Date: October 5, 2005 :
Attorney Docket No. OSU 0024 PA :

This is a decision in response to the "Petition to Withdraw the Holding of Abandonment Under 37 CFR §1.181" filed September 27, 2007. The petition is being treated as a petition under 37 CFR 1.181 and 37 CFR 1.137(b).

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

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

Facts:

The application was filed without an executed oath or declaration.

On November 8, 2005, the Office mailed a Notice to File Missing Parts requiring the submission of an executed oath or declaration.

On January 11, 2006, petitioner submitted an executed declaration that appears to have been intended for another application. The declaration incorrectly includes a correct inventor, excludes the two correct inventors, fails to list the correct application number, and fails to list the correct date.

The Office of Initial Patent Examination determined the declaration was an improper reply to the Notice of Missing Parts and mailed a Notice of Abandonment on September 14, 2007.

The petition under 37 CFR 1.181:

A petition under 37 CFR 1.181 is appropriate when an applicant contends a Notice of Abandonment was mailed in error. However, petitioner has not asserted the Notice of Abandonment was mailed in error.

The Office has reviewed the record and verified the Notice of Abandonment was properly mailed.

Therefore, the petition under 37 CFR 1.181 will not be granted.

The petition under 37 CFR 1.137(b):

The petitioner states the abandonment was unintentional and has supplied the fee required for petitions under 37 CFR 1.137(b). Based on the facts, the Office will interpret the petition as being a petition filed in the alternative under 37 CFR 1.137(b).

Petitioner has met the requirements of 37 CFR 1.137(b). Petitioner has submitted the required petition fee of $750. Petitioner has submitted a proper declaration.

Petitioner has not explicitly 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. 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." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above.

The Office of Patent Application Processing will be informed of the instant decision and the application will be prepared for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Richard K. Merrill | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7666458 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,319 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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ARNOLD & FERRERA, L.L.P.
2401 FOUNTAIN VIEW DRIVE
SUITE 630
HOUSTON TX 77057

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Karim Al Hussiny | : | |
| Application No.: 11/244320 | : | DECISION ON |
| Filing or 371(c) Date: 10/05/2005 | : | PETITION |
| Attorney Docket Number: G31772US | : | |

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed July 11, 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 October 26, 2005. The Notice required the basic filing fee; oath or declaration and surcharge, and replacement drawings.. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a reply to the Notice on December 9, 2006; however, no drawings were included with the reply. In response to the reply, his Office mailed a Notice of Incomplete Reply (Nonprovisional) on December 15, 2005, requiring drawings. The Noice of Incomplete Reply informed Applicant that "the period of reply remains as set forth in the Notice." No reply having been received, the application became abandoned on December 27, 2005. A Notice of Abandonment was mailed May 11, 2006.

With the present petition, Applicant has included drawings in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition . Accordingly, the reply is accepted as having been unintentionally delayed.

The Power of Attorney and Change of Correspondence Address has been entered and made of record.

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

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

Derek L. Woods
Attorney
Office of Petitions

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**RAYMOND R. FERRERA**
**1221 MCKINNEY STREET, SUITE 4400**
**HOUSTON TX 77010**

**MAILED**

MAR 02 2009

**OFFICE OF PETITIONS**

In re Application of :

**ALHUSSINY**, Karim :
Application No. 11/244,320 : DECISION ON PETITION
Filed: October 05, 2005 : TO WITHDRAW
Attorney Docket No. **15932-6** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 08, 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 Raymond R. Ferrera on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed January 06, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 572-727-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KARIM ALHUSSINY**
**2002 NORFOLK ST., SUITE B**
**HOUSTON, TX 77098**

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**MCNEES WALLACE & NURICK LLC**
**100 PINE STREET**
**P.O. BOX 1166**
**HARRISBURG, PA 17108-1166**

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| BRUCE, et al. | : | |
| Application No. 11/244,343 | : | DECISION GRANTING PETITION |
| Filed: October 5, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **132030(07783-0203-U1)** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 1, 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 2, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3682 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

---

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

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NEW YORK NY 10017

| | | |
|---|---|---|
| In re Application of | : | |
| Randall J. Mrsny | : | |
| Application No. 11/244348 | : | ON REQUEST FOR |
| Filing or 371(c) Date: 10/04/2005 | : | RECONSIDERATION OF |
| Attorney Docket No. | : | PATENT TERM ADJUSTMENT |
| 10901-015-999 | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed July 6, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 705 days, not 324 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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

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

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

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

[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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Randall J. Mrsny | : | |
| Patent Number: 7,611,714 | : | DECISION ON |
| Issue Date: 11/03/2009 | : | APPLICATION FOR |
| Application No. 11/244348 | : | PATENT TERM ADJUSTMENT |
| Filing or 371(c) Date: 10/04/2005 | : | and |
| Attorney Docket No. | : | NOTICE OF INTENT TO ISSUE |
| 10901-015-999 | : | CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on November 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 seven hundred nineteen (719) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred nineteen (719) 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 **seven hundred nineteen (719) days**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,611,714 B2

DATED : **November 3, 2009**

INVENTOR(S) : Mrsny

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 324 days.

Delete the phrase "by 324 days" and insert – by 719 days--

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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William Propp, Esq.
Goldeneye, Inc.
Suite 233
9747 Businesspark Avenue
San Diego CA 92131

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OFFICE OF PETITIONS

In re Application of :
Beeson :
Application No. 11/244,352 : ON PETITION
Filed: October 5, 2005 :
Title: Light Emitting Diode Projection Display System :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 25, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on November 15, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 16, 2006. A Notice of Abandonment was mailed on September 25, 2006.

Petitioner contends the Office Communication mailed on November 15, 2005 was not received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office

communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office Communication may have been lost after receipt rather than a conclusion that the Office Communication was lost in the mail.

Petitioner argues as a result of several pieces of correspondence being lost by the US Post Office a change of address was submitted to the Office on December 16, 2005. However, petitioner has failed to present any evidence that correspondence was not reaching petitioner due to the fault of the U.S. Post Office. A review of the record shows that the Notice was properly mailed to the correspondence address of record. The record is not clear that the Notice was not received because petitioner no longer received mailed at the Carlsbad address due to the move to the San Diego address. 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 lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

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

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

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant
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

William Propp, Esq.
Goldeneye, Inc.
Suite 233
9747 Businesspark Avenue
San Diego CA 92131

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OFFICE OF PETITIONS

In re Application of
Beeson et al.
Application No. 11/244,352
Filed: October 5, 2005
Attorney Docket No. KB15
Title of Invention: Light Emitting Diode Projection Display Systems

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 13, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on November 15, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 16, 2006. A Notice of Abandonment was mailed on September 25, 2006. A petition under 37 CFR 1.181 was dismissed on November 20, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the declaration submitted with the instant petition.

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

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

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

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 2 9 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sam Zhadanov, et al. | : | |
| Application No. 11/244,355 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. N/A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's driver's license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3732 for action on the merits commensurate with this decision.

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

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MAR 2 9 2006

**OFFICE OF PETITIONS**

In re Application of Asbach et al. :
Reissue Application No. 11/244,408 :
Reissue Filing Date: October 6, 2005 :
Reissue of Patent No. 6,629,727 :
Original Issue Date: October 7, 2003 :
Attorney Docket No. 0621.0897C :
For: Infant Support With Entertainment Device :

Decision According Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 31, 2006.

The petition is **granted**.

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

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LEXICON GENETICS INCORPORATED
8800 TECHNOLOGY FOREST PLACE
THE WOODLANDS TX 77381-1160

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Abuin, et al. | : DECISION REFUSING |
| Application No. 11/244,415 | : STATUS UNDER |
| Filed: October 5, 2005 | : 37 CFR 1.47(a) |
| Attorney Docket No. LEX-0705--USA | : |
| For: NOVEL HUMAN MEMBRANE PROTEINS AND POLYNUCLEOTIDES ENCODING THE SAME | : |

This decision is in response to the petition under 37 CFR 1.47(a), filed March 13, 2006 (certificate of mailing date March 9, 2006).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 5, 2005 without an executed oath or declaration. Accordingly, on January 9, 2006, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, fees, an executed oath or declaration, and a surcharge for their late filing.

In response, petitioners filed a declaration executed by 18 of 19 joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, on March 13, 2006 (certificate of mailing date March 9, 2006).[1] Attorney David W. Hilber signed the instant petition. Attorney Hilber sets forth the last known addresses of non-signing inventor Xiaoming Wang and states that a mailing to her last known addresses was returned and that Internet searches for her whereabouts were fruitless. Over 200 addresses were found for a "Xiaoming Wang". One of the Internet searches listed her

[1] The petition fee of $200.00 will be charged to deposit account no. 50-0892.

last known, but no longer valid, address as her current address. Petitioners have shown diligence in attempting to locate Ms. Wang.

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains an noninitialed, nondated alteration to Inventor Wattler's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Ms. Wang is REQUIRED. See MPEP 409.03(a).

Fortunately, Mr. Wattler is a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Wattler should correct his information on a supplemental declaration identifying the entire inventive entity but signed only by him.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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8800 TECHNOLOGY FOREST PLACE
THE WOODLANDS TX 77381-1160

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OFFICE OF PETITIONS

In re Application of
Abuin, et al.
Application No. 11/244,415
Filed: October 5, 2005
Attorney Docket No. LEX-0705--USA
For: NOVEL HUMAN MEMBRANE PROTEINS AND POLYNUCLEOTIDES ENCODING THE SAME

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

This is a **revised** decision is in response to the petition under 37 CFR 1.47(a), filed March 13, 2006 (certificate of mailing date March 9, 2006). Any inconsistencies between the decision of May 23, 2006 and the present decision should be resolved in favor of the present decision.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 5, 2005 without an executed oath or declaration. Accordingly, on January 9, 2006, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, fees, an executed oath or declaration, and a surcharge for their late filing.

In response, petitioners filed a declaration executed by 18 of 19 joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, on March 13, 2006 (certificate of mailing date March 9, 2006).[1] Attorney David W. Hilber signed the instant petition. Attorney Hilber sets forth the last known addresses of non-signing inventor Xiaoming Wang and states that a mailing to her last known address was returned and that Internet searches for her whereabouts were fruitless.

[1] The petition fee of $200.00 was charged to deposit account no. 50-0892.

Over 200 addresses were found for a "Xiaoming Wang". Petitioners contend that attempting to contact all the people named "Xiaoming Wang" identified in the Internet searches is not feasible.

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

The petition lacks items (1) and (2).

As to item (1), after a consultation with SPE Ira Lazarus and two petitions attorneys, it was determined that petitioners have not shown the required level of diligence in attempting to locate Inventor Wang. Efforts beyond running Internet searches are required. Petitioners should attempt to contact a reasonable number of "the hits" from the Internet search results within at least a geographic proximity of the last known address of Xiaoming Wang.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains an noninitialed, nondated alteration to Inventor Wattler's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Ms. Wang is REQUIRED. See MPEP 409.03(a).

Fortunately, Mr. Wattler is a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Wattler should correct his information on a supplemental declaration identifying the entire inventive entity but signed only by him.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Abuin, et al. : ON PETITION
Application No. 11/244,415 :
Filed: October 5, 2005 :
Attorney Docket No. LEX-0705--USA :
For: NOVEL HUMAN MEMBRANE PROTEINS AND POLYNUCLEOTIDES ENCODING THE SAME :

Papers filed on September 14, 2006 in reply to "Revised Decision Refusing Status Under 37 CFR 1.47(a)" mailed on June 7, 2006, included a Declaration signed by the previously nonsigning inventor, Xiaoming Wang, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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APR 30 2007

**OFFICE OF PETITIONS**

In re Application of :
Thomas J. Mcleer :
Application No. 11/244,420 : DECISION ON PETITION
Filed: October 4, 2005 : TO WITHDRAW
Attorney Docket No. 29914-729.201 : FROM RECORD
:

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Wilson, Sonsini, Goodrich & Rosati has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHAY LAW GROUP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/23/2010

| | | |
|---|---|---|
| **Applicant** | : Raynald Achart | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7605495 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,423 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **677** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CARACAPPA AND ASSOCIATES, PC
9712 FOREST ROAD
GOODE, VA 24556

In re Application of :
Witt : DECISION ON PETITION
Application No. 11/244,426 :
Filed: October 5, 2005 :
Docket No.: 1092-6 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 15, 2006.

This application was held abandoned for failure to timely submit a proper reply to the Notice mailed November 4, 2005. Notice of Abandonment was mailed July 11, 2006.

Petitioner asserts that a response to the Notice was timely submitted on January 4, 2006 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated January 9, 2006 acknowledging receipt of the reply.

The original response was received January 9, 2006 has been located in the application file. The response bears a certificate of mailing date of January 4, 2006 in accordance with 37 CFR 1.8 and is thus deemed to have been timely submitted.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The requested change of address/power of attorney has been entered.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/244,428 | 10/05/2005 | 1732 | 0.00 | P239C113C198 | 3 | 19 | 3 |

**CONFIRMATION NO. 2209**

**CORRECTED FILING RECEIPT**

*OC000000018078592*

25108
MOLECULAR IMPRINTS, INC.
KENNETH C. BROOKS
PO BOX 81536
AUSTIN, TX 78708-1536

Date Mailed: 02/16/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Frank Y. Xu, Round Rock, TX;
Van N. Truskett, Austin, TX;
Edward B. Fletcher, Austin, TX;
Pankak B. Lad, Austin, TX;
Ian M. McMackin, Austin, TX;

**Assignment For Published Patent Application**

Molecular Imprints, Inc.

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/763,885 01/23/2004 ABN
and is a CON of 11/068,397 02/28/2005
and claims benefit of 60/631,029 11/24/2004
and is a CIP of 11/012,374 12/15/2004 ABN
and is a CIP of 11/012,375 12/15/2004 ABN

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/28/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/244,428**

**Projected Publication Date:** To Be Determined - pending completion of Missing Parts

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Method of providing desirable wetting and release characterstics between a mold and a polymerizable composition

**Preliminary Class**

264

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

---

## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/1/09 Paper No.: ____

TO SPE OF : ART UNIT 3737

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/244434 Patent No.: 7558619B2

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:** _____

BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

**SPE** 3737 **Art Unit**

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ernesto Lasalandra | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646582 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,439 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **868** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FEB 0 6 2007

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

| | |
|---|---|
| Application Number | 11/244,446 |
| Filing Date | October 4, 2005 |
| First Named Inventor | Frechet et al. |
| Art Unit | 1778 |
| Examiner Name | LE, HOA T |
| Attorney Docket Number | UCALP057 |

**To: Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, VA 22313-1450**

3-15-07
Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 22434

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The Assignee has chosen another firm to prosecute this application with the U.S. Patent Office.

## CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

| | | | | | |
|---|---|---|---|---|---|
| ☑ Firm or Individual Name | Withrow & Terranova, PLLC, Attn: Mr. Ben Withrow | | | | |
| Address | 100 Regency Forest Drive, Suite 160 | | | | |
| City | Cary | State | NC | Zip | 27518 |
| Country | USA | | | | |
| Telephone | 919-238-2338 | Email | bwithrow@withrowterranova.com | | |

| | | | |
|---|---|---|---|
| Signature | Henry K. Woodward | | |
| Name | Henry K. Woodward | Registration No. | 22,672 |
| Date | February 6, 2007 | Telephone No. | 650-961-8300 |

*NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.*

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/244,450 | 10/06/2005 | Clifford L. Johns | VES.101CIPDIV | 2307 |

24062 7590 03/31/2009

CAMORIANO & ASSOCIATES
8225 SHELBYVILLE ROAD
LOUISVILLE, KY 40222

| EXAMINER | |
|---|---|
| LARKIN, DANIEL SEAN | |
| ART UNIT | PAPER NUMBER |
| 2856 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/31/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CAMORIANO & ASSOCIATES
8225 SHELBYVILLE ROAD
LOUISVILLE KY 40222

Applicant: Johns et al.
Appl. No.: 11/244,450
Filing Date: October 6, 2005
Title: METHOD FOR CONTROLLING THE QUALITY OF CATALYST LOADING OF CHEMICAL REACTOR TUBES
Attorney Docket No.: VES.101CIPDIV
Pub. No.: US 2006/0037384 A1
Pub. Date: February 23, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on September 13, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, **as a Pre-Grant publication submission.** The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 03/31/2009 KKING1
09/13/2007 INTEFSW 00007095 11244450
01 FC:1504 -300.00 OP

Refund Ref:
03/31/2009 0030068303

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Credit Card Refund Total: $300.00

Master C: XXXXXXXXXXXX4524

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Fellers, Snider, Blankenship, Bailey & Tippens
Bank One Tower
Suite 1700
100 North Broadway
Oklahoma City, OK 73102-8820

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Daniel T. Dovel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641202 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,470 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HOWARD M. PETERS
PETERS, VERNY, JONES, SCHMITT & ASTON, L.L.P.
SUITE 230
425 SHERMAN AVENUE
PALO ALTO, CA 94306

COPY MAILED
APR 24 2006
OFFICE OF PETITIONS

In re Application of :
David McFadden and Ray Sobeck :
Application No. 11/244,472 : DECISION REFUSING STATUS
Filed: October 5, 2005 : UNDER 37 CFR 1.47(a)
Title: ENVIRONMENTALLY FRIENDLY :
PESTICIDE AND METHOD OF USE :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 13, 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 on October 5, 2005 without an executed oath or declaration and naming David McFadden and Ray Sobeck as joint inventors.

Accordingly, on November 21, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on February 13, 2006, the instant petition and a one (1) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

Petitioner states, "On Monday, February 6, 2006, I received a letter from the attorney for Mr. McFadden indicating that he would not reconsider or sign the Declaration and Assignment."

Petitioner should submit a copy of this written refusal.

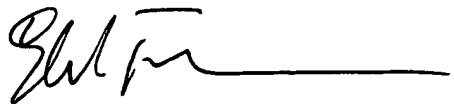
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWARD M. PETERS
PETERS, VERNY, JONES, SCHMITT & ASTON, L.L.P.
SUITE 230
425 SHERMAN AVENUE
PALO ALTO, CA 94306

COPY MAILED
JUL 20 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| David McFadden and Ray Sobeck | : | |
| Application No. 11/244,472 | : | DECISION GRANTING PETITION |
| Filed: October 5, 2005 | : | UNDER 37 CFR 1.47(a) |
| For: ENVIRONMENTALLY FRIENDLY | : | |
| PESTICIDE AND METHOD OF USE | : | |

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed June 14, 2006.

The petition is **granted**.

Petitioner has shown that non-signing inventor David McFadden has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Please note, the last known address of the non-signing inventor is assumed to be the address stated in the declaration.

The file is being forwarded to Technology Center 1600 for further examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID MCFADDEN
419 ASILOMAR AVENUE
PACIFIC GROVE, CA 93950

COPY MAILED
JUL 2 0 2006
OFFICE OF PETITIONS

In re Application of
David McFadden and Ray Sobeck
Application No. 11/244,472
Filed: October 5, 2005
For: ENVIRONMENTALLY FRIENDLY
PESTICIDE AND METHOD OF USE

Dear DAVID MCFADDEN:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

HOWARD M. PETERS
PETERS, VERNY, JONES, SCHMITT & ASTON, L.L.P.
SUITE 230
425 SHERMAN AVENUE
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

APR 28 2009

OFFICE OF PETITIONS

In re Application of :
Spanner et al. : LETTER REGARDING
Application No. 11/244,478 : PATENT TERM ADJUSTMENT
Filed: October 6, 2005 :
Attorney Docket No. 56/445 :

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed February 2, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred fifty-two (352) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 5, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 353 days. On February 2, 2009, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated on the Determination of Patent Term Adjustment is incorrect and should be set at 352 days. Applicants state that a reduction under 37 CFR 1.704(b) of 28 days and not 27 days should have been entered for their response deposited pursuant to 37 CFR 1.10 on September 26, 2008.

A review of the application history indicates that applicants are correct. The relevant response is considered to be filed with the USPTO on September 26, 2008, the date of deposit with the "Express Mail Post Office to Addressee " service of the USPS. 37 CFR 1.10. The patent term adjustment will be calculated based on the filing date of September 26, 2008, not September 25, 2008.

37 CFR 1.704(b) stated:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Accordingly, as disclosed by applicants, the period of adjustment of the term of the patent should be reduced by 28 days (not 27 days), counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, August 30, 2008, and ending on the date the reply was filed, September 26, 2008. See 37 CFR 1.704(b). The period of reduction of 27 days will be removed and a period of reduction of 28 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **352 days**.

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision 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 REVISED PALM screen

Day : Monday
Date: 4/27/2009

PALM INTRANET

Time: 18:05:03

| PTA Calculations for Application: 11/244478 | | | |
|---|---|---|---|
| Application Filing Date: | 10/06/2005 | PTO Delay (PTO): | 380 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 27 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 352 |
| PTO Delay Adjustment: | -1 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 59 | 04/27/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 28 | |
| 58 | 04/27/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | 27 | | |
| 50 | 11/05/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 49 | 11/04/2008 | ISSUE REVISION COMPLETED | | | |
| 48 | 11/04/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 47 | 11/04/2008 | DOCUMENT VERIFICATION | | | |
| 46 | 10/25/2008 | NOTICE OF ALLOWABILITY | | | |
| 41 | 10/16/2008 | DATE FORWARDED TO EXAMINER | | | |
| 40 | 09/25/2008 | AMENDMENT AFTER FINAL REJECTION | | 27 | 38 |
| 39 | 09/25/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 38 | 05/29/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 37 | 05/27/2008 | FINAL REJECTION | | | |
| 35 | 04/01/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 34 | 03/11/2008 | DATE FORWARDED TO EXAMINER | | | |
| 33 | 02/13/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 32 | 12/21/2007 | MAIL NON-FINAL REJECTION | 380 | | -1 |
| 31 | 12/21/2007 | NON-FINAL REJECTION | | | |
| 25 | 10/04/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 24 | 08/22/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 08/16/2007 | PG-PUB ISSUE NOTIFICATION | | | |
| 21 | 03/06/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 20 | 06/29/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 19 | 06/27/2007 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |

| | | | | | |
|---|---|---|---|---|---|
| 18 | 03/06/2006 | REFERENCE CAPTURE ON IDS | | | |
| 17 | 03/06/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 16 | 02/01/2006 | PRELIMINARY AMENDMENT | | | |
| 15 | 10/06/2005 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 14 | 05/15/2007 | APPLICATION DISPATCHED FROM OIPE | | | |
| 13 | 05/09/2007 | SENT TO CLASSIFICATION CONTRACTOR | | | |
| 12 | 05/09/2007 | APPLICATION IS NOW COMPLETE | | | |
| 11 | 10/06/2005 | CLAIM PRELIMINARY AMENDMENT | | | |
| 9 | 02/01/2006 | ADDITIONAL APPLICATION FILING FEES | | | |
| 6 | 02/01/2006 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 5 | 11/01/2005 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 3 | 10/27/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 10/21/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/06/2005 | 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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MAR 2 - 2007

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
DUAN, XIAOQIN .
Application No. 11/244,480
Filed: October 06, 2005
For: **METHOD FOR LIMITING QUANTITY OF LOCATION INFORMATION REQUEST FLOWS IN LOCATION SERVICE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 25, 2006 (certificate of mailing dated 8/22/06), under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Dorthe Kot Engelund | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595293 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,497 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **498** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
THE FINANCIAL CENTER
666 WALNUT STREET
SUITE 2500
DES MOINES, IA 50309-3993

**COPY MAILED**

APR 10 2007

**OFFICE OF PETITIONS**

In re Application of :
Hans Christian Lassen, et al. :
Application No. 11/244,527 : ON PETITION
Filed: October 6, 2005 :
Attorney Docket No. 4200352/74580 :

This is a decision on the petition under 37 CFR 1.137(b), filed by September 21, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 7, 2005. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed on July 18, 2006. In response, on September 21, 2006, the present petition was filed.

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 petition lacks item 1.

While petitioner has supplied an executed declaration, petitioner did not submit the requisite surcharge required under 37 CFR 1.16(e). Accordingly, the application cannot be revived until a complete response to the Notice of November 7, 2005 is 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 undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THE FINANCIAL CENTER
666 WALNUT STREET
SUITE 2500
DES MOINES, IA 50309-3993

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Hans Christian Lassen :
Application No. 11/244,527 : ON PETITION
Filed: October 6, 2005 :
Attorney Docket No. 4200352/74580 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 7, 2005. The notice set a two-month period to respond and required an oath or declaration under 37 CFR 1.63 and surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed on July 18, 2006. On September 21, 2006, a petition under 37 CFR 1.137(b) was filed along with an executed declaration. The petition was subsequently dismissed in a decision mailed April 10, 2007. In response, on November 13, 2007, the present petition was filed, along with the surcharge for the late filing of the declaration and an appropriate extension of time.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed declaration and the $65 surcharge; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is noted that address given on the renewed petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The Revocation and Power Attorney filed November 13, 2007 is **not** acceptable, since the Power of Attorney is from an assignee but does not include the certificate required by 37 CFR 3.73(b).

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed on September 21, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DANIEL A. ROSENBURG
BRIGGS AND MORGAN
2200 IDS CENTER
80 S. 8TH STREET
MINNEAPOLIS, MN 55402

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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 |
|---|---|---|---|---|---|---|---|
| 11/244,529 | 10/05/2005 | 3662 | 2100 | 040925 | 60 | 34 | 5 |

**CONFIRMATION NO. 2729**

**CORRECTED FILING RECEIPT**

23696
QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

*OC000000018461443*

Date Mailed: 04/05/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Douglas N. Rowitch, Del Mar, CA;
Chang S. Row, Los Altos, CA;
Ann Yun-En Tien, Los Gatos, CA;
Sanjeev Khushu, San Diego, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number **23696**.

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/664,444 03/22/2005

**Foreign Applications**

**Projected Publication Date:** To Be Determined - pending completion of Security Review

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Methods and systems for deriving seed position of a subscriber station in support of unassisted GPS-type position determination in a wireless communication system

**Preliminary Class**

342

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/244,530 | 10/05/2005 | 2825 | 1000 | 05-0932 (86151/6653) | 7 | 20 | 2 |

**CONFIRMATION NO. 2725**

**CORRECTED FILING RECEIPT**

*OC000000017823393*

24319
LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

Date Mailed: 01/11/2006

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)**

Juergen K. Lahner, Morgan Hill, CA;
Balamurugan Balasubramanian, Santa Clara, CA;
Randall P. Fry, Greenville, NC;

**Assignment For Published Patent Application**

LSI Logic Corporation

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/08/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/244,530**

**Projected Publication Date:** 04/05/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Method and computer program for incremental placement and routing with nested shells

**Preliminary Class**

716

## 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).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

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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BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Bradley J. Mitchell | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624732 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,535 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **690** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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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CHRISTOPHER J. KAY
SUITE 100
3111 W. DR. MARTIN LUTHER KING JR. BLVD.
TAMPA, FL 33607

COPY MAILED

DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Michael A. Dasilva :
Application No. 11/244,580 : DECISION ON PETITION
Filed: October 5, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1432.007 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed October 5, 2005, 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 meets the requirements set out above. 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 Art Unit 3624 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/244,580 | 10/06/2005 | 3624 | 650 | 1432.007 | 5 | 26 | 2 |

**CONFIRMATION NO. 2758**

Christopher J. Kay
Suite 100
3111 W. Dr. Martin Luther King Jr. Blvd.
Tampa, FL 33607

**CORRECTED FILING RECEIPT**

*OC000000017822242*

Date Mailed: 01/11/2006

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)**

Michael A. Dasilva, Tampa, FL;

**Power of Attorney:**

Christopher Kay--44820

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/642,804 01/10/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/07/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/244,580**

**Projected Publication Date:** 07/13/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Money management education system, apparatus and method

**Preliminary Class**

705

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

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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MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kelly D. Seibert | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594994 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,589 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT & T Legal Department - BHGL
Attn: Patent Docketing Room 2A-207
One AT&T Way
Bedminster, NJ 07921

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OFFICE OF PETITIONS

In re Patent No. 7,639,788 :
Issue Date: December 29, 2009 :
Application No. 11/244,595 : DECISION ON PETITION
Filed: October 5, 2005 : TO WITHDRAW FROM
Patentee(s): Douglas F. Reynolds, et. al. : RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed October 13, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw practitioners associated with customer number 83808, when the Oath/Declaration and Power of Attorney filed on October 5, 2005 originally granted power to the attorneys/agents individually.

Additionally, the request to change the correspondence of record is not acceptable[1] 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.

The correspondence address of record will remain as the above-listed address.

if petitioner desires to receive future correspondence regarding maintenance fees for the above patent, the appropriate power of attorney or authorization of agent and a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See USPTO forms PTO/SB/47 and PTO/SB/125.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: SBC Properties, L.P.
One AT&T Way
Bedminister, NJ 07921

[1] The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (*See* USPTO Form PTO/SB/82).

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C. ANDREW IM
FULBRIGHT & JAWORSKI LLP
666 FIFTH AVENUE
NEW YORK, NY 10103

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Richard A. Deverse et al :
Application No. 11/244,596 : DECISION ON PETITION
Filed: October 5, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. NY-PSS 206-US1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 30, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Inventor William G. Fateley's passport 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 1743 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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Howard Chen, Esq.
Preston Gates & Ellis LLP
Suite 1700
55 Second Street
San Francisco, CA 94105

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OFFICE OF PETITIONS

In re Application of Chang et al. :
Application No. 11/244,601 : Decision on Petition
Filing Date: October 5, 2005 :
Attorney Docket No. TSMC2003-1472 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 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 November 10, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 11, 2006. A Notice of Abandonment was mailed on July 18, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jeng-Hong Chen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593472 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,607 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 300
GARDEN CITY NY 11530

MAIL

JAN 29 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

| | | |
|---|---|---|
| In re Application of | : | |
| OKAWA, KANEYASU | : | DECISION ON REQUEST TO |
| Application No. 11/244,617 | : | PARTICIPATE IN PATENT |
| Filed: October 6, 2005 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 19238 | : | PILOT PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed January 3, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition is deficient as follows:

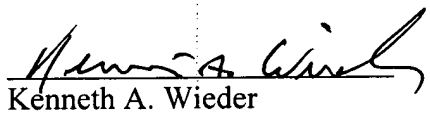
Petitioner has not complied with item 2 above in that although a translation of the claims has been submitted, the petition fails to include a copy of the actual allowable/patentable claims from the JPO application. The U.S. Patent and Trademark Office does not have the capability to download JP language documents from the Dossier Access System at this time.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kenneth Wieder at 571-273-2986 (RightFax) or 571-273-0308 or via EFS-web.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.



Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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In re Application of
OKAWA, KANEYASU
Application No. 11/244,617
Filed: October 6, 2005
Attorney Docket No. 19238

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed February 29, 2008 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**DONNA J. RUSSELL**
**1492 ANTHONY WAY**
**MT. JULIET, TN 37122**

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Harry E. ENSLEY, et al | : | |
| Application No. 11/244,639 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. ETSURF-WE | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 13, 2007.

The request is **NOT APPROVED**.

The 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.

The request cannot be approved because it is not signed by an attorney/agent.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DR. MICHAE; WOODRUFF,
EXECUTIVE DIRECTOR
EAST TENNESSEE STATE UNIVERSITY
RESEARCH FOUNDATION
2109 WEST MARKET STREET
JOHNSON CITY, TN 37604

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STEVEN M. COLBY
P. O. BOX 60092
PALO ALTO CA 94306

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MAY 28 2010

OFFICE OF PETITIONS

In re Application of Colby :
Application No. 11/244,641 : On Application For
Filing Date: October 5, 2005 : Patent Term Adjustment
Attorney Docket No. SMC-33 :

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705" filed January 8, 2010. Applicant submits the correct patent term adjustment to be indicated on the patent is seven hundred sixty-eight (768) days, not 225 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

Since the request is being dismissed as premature, the Office need not determine if the request was timely filed. However, Applicant may wish to note the issue fee was paid November 24, 2009, the request was filed January 8, 2010, and 37 CFR 1.705(b) states the request "must be filed no later than the payment of the issue fee."

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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Melvin I. Stoltz
51 Cherry Street
Milford, CT 06460

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| In re Application of | : | |
| Lai | : | |
| Application No. 11/244,685 | : | ON PETITION |
| Filed: October 6, 2005 | : | |
| Attorney Docket No.: | : | |
| 802-019-3 | : | |

This is a decision on the Petition to the Commissioner to Accord Original Filing Date, filed November 8, 2005, requesting the application be accorded its original filing date of October 6, 2005.

The petition is **dismissed**.

The application was filed on October 6, 2005. However, on October 31, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), noting that a filing date had been accorded the application; however, Figure 29 and 30 described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In response to the Notice, Applicant files the instant petition and drawing Figures 29 and 30, and assert that the drawing Figures are not new matter. As such, Applicant requests that the original filing date of October 6, 2005 be maintained.

Initially it is noted that the application has been accorded a filing date of Octoiber 6, 2005, and the Notice informed Applicant that Figures 29 and 30 were omitted and, as such, were not present on October 26, 2005, and therefore could not be accorded a filing date of October 6, 2005. However, the filing date of the application was and remains October 6, 2005.

Applicant is further advised that a petition is not necessary in this instance to add the drawings on the basis that the drawings are not new matter. The issue of new matter is one appropriately addressed by the examiner. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. *See*, MPEP 608.02(a).

The petition is dismissed.

Since the present petition was not necessitated by any error on the part of the Office, the petition fee will not be refunded.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of October 6, 2005, using the application papers filed on that date. Thereafter, the file will be referred to an Examiner for consideration of the drawings.

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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Christopher & Weisberg, P.A.
200 East Las Olas Boulevard
Suite 2040
Fort Lauderdale, FL 33301

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Miriam Lane | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648497 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,710 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : 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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

Applicant: Ridker et al.
Appl. No.: 11/244,716
Filing Date: October 6, 2005
Title: RELEVANCE OF ACHIEVED LEVELS OF MARKERS OF SYSTEMIC INFLAMMATION FOLLOWING TREATMENT
Attorney Docket No.: B0801.70308US01
Pub. No.: US 2006/0115903 A1
Pub. Date: June 6, 2006

This is a decision on the requests for corrected of patent application publication under 37 CFR 1.221(b), received on June 19, 2006 and July 31, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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75 Enterprise, Suite 250
Aliso Viejo, CA 92656

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|---|---|---|
| In re Application of | : | |
| Trace Eubanks | : | |
| Application No. 11/244,717 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. YEART-001C | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 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 Kit. M. Stetina on behalf of all attorneys of record who are associated with Customer No. 007663.

All attorneys/agents associated with the Customer No. 007663 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 Trace Eubanks at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Trace Eubanks
3631 Roblar Avenue
Santa Ynez, CA 93460

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OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
SANDY, UT 84070

In re Application of :
Jenkins, et al. : DECISION GRANTING STATUS
Application No. 11/244,723 : UNDER 37 CFR 1.47(a)
Filed: October 5, 2005 :
Atty. Dkt. No.: 23702.NP :
For: TILE WITH MULTIPLE-LEVEL :
SURFACE :
:

This decision is in response to the petition under 37 CFR 1.47(a), filed December 27, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Jeremiah Shapiro has either refused to execute the declaration for the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JEREMIAH SHAPIRO
3361 SOUTH TIMERON DRIVE
WEST VALLEY CITY, UTAH 84128

In re Application of :
Jenkins, et al. :
Application No. 11/244,723 : LETTER
Filed: October 5, 2005 :
Atty. Dkt. No.: 23702.NP :
For: TILE WITH MULTIPLE-LEVEL SURFACE :

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FEB 02 2006
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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**8180 SOUTH 700 EAST, SUITE 200**
**SANDY, UT 84070**

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MAY 12 2006

**OFFICE OF PETITIONS**

In re Application of
Mark L. Jenkins et al
Application No. 11/244,723
Filed: October 5, 2005
Attorney Docket No. 23702.NP

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(d)

This is a decision on the petition under 37 CFR § 1.102(d), filed March 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3635 for action on the merits commensurate with decision.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

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**RM 4-1159**
**BELTSVILLE MD 20705-5131**

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| | | |
|---|---|---|
| In re Application of | : | |
| Kornecki et al. | : | |
| Application No. 11/244,733 | : | ON PETITION |
| Filed: October 6, 2005 | : | |
| Attorney Docket No. 0098.04 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 2, 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 a signed Oath/Declaration and the late surcharge; (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 Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 10 2010

OFFICE OF PETITIONS

High Point Pharmaceuticals, Inc.
4170 Mendenhall Oaks Pkwy
High Point NC 27265

In re Application of :
Gundertofte, et al. :
Application No. 11/244,745 : ON APPLICATION FOR
Filed: October 6, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 6903.504-US :

This is in response to the PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE, filed December 16, 2009. The request will be treated under 37 CFR § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred ninety-five (595) days, not two hundred and four (204) 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 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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Clements Bernard PLLC
1901 Roxborough Road
Suite 250
Charlotte NC 28211

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MAY 25 2010

**OFFICE OF PETITIONS**

In re Application of
Strenio et al.
Application No. 11/244,748
Filed: October 5, 2005
Attorney Docket No. 3997

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed June 12, 2009. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 13, 2009. A Notice of Abandonment was mailed on October 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $755 issue and publication fees of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**Patent Law Office of David G. Beck**
**P.O. Box 1146**
**Mill Valley, CA 94942**

COPY MAILED

AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of :

Ross Alan Tessien :
Application No. 11/244,753 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. IMP027CP : FROM RECORD
:

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, the sole attorney of record. David G. Beck has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ross Alan Tessien at the address indicated below

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ross Tessien c/o**
**Impulse Devices, Inc.**
**13366 Grass Valley Ave., Unit H**
**Grass Valley, CA 95945**

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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 |
|---|---|---|---|
| 11/244,753 | 10/06/2005 | Ross Alan Tessien | IMP027CP |

**CONFIRMATION NO. 4870**

*OC000000025177804*

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

Date Mailed: 08/03/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2007.

- 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.

---

Alli Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MEDTRONIC, INC.**
**710 MEDTRONIC PARKWAY NE**
**MINNEAPOLIS MN 55432-9924**

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JAN 25 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Mehra et al. | : | |
| Application No. 11/244,764 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | |
| Attorney Docket No. P0008708.05 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 1, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2009. A Notice of Abandonment was mailed October 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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. 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) 272-7751.

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: William D. Bauer / IPLM Group, P.A.
P.O. Box 18455
Minneapolis, MN 55418

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Paper No.

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

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SEP 22 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Alexandros Makriyannis et al. | : | |
| Application No. 11/244,770 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | PURSUANT TO |
| Attorney Docket No. | : | 37 C.F.R. § 1.181(A) |
| UCONAP/242/US | : | |
| Title: NOVEL PYRAZOLE ANALOGS | : | |
| ACTING ON CANNABINOID RECEPTORS | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on August 22, 2008.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed January 24, 2008, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on February 25, 2008. A Notice of abandonment was mailed on August 6, 2008.

With this petition, Petitioner has asserted that a response to this communication was submitted to the Office on June 30, 2008, along with a five-month extension of time. Petitioner has submitted both a copy of this response and a postcard receipt that establishes that both a "RESPONSE TO RESTRICTION REQUIREMENT" and an "Ext. of Time Req. w/$1,115 Fee" were received in the Office on July 3, 2008.

Moreover, a copy of this response has been located in the electronic file, and Office records confirm that payment in the amount of $1,115 was received on July 3, 2008; therefore, it is clear that both this response to the restriction requirement and a five-month extension of time were timely received on July 3, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement that was received on July 3, 2008 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Michael S. Coulton | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604536 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,775 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**PAMELA A. KACHUR**
**950 W 450 S**
**BLDG. 4**
**COLUMBUS IN 47201**

MAILED

SEP 08 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Abram et al. | : | |
| Application No. 11/244,783 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | |
| Attorney Docket No. 60130-2465;05ARM0265 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed January 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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.

**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.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 3753 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kerrie A. Laba
400 W. Maple Road, Suite 350
Birmingham, MI 48009

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OFFICE OF PETITIONS

**AKERMAN SENTERFITT**
**P.O. BOX 3188**
**WEST PALM BEACH FL 33402-3188**

In re Application of :
**REDKO**, et al. :
Application No. 11/244,796 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. 8040-2 : 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 November 8, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Neil R. Jetter on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLODYMYR REDKO**
**4956 ROTHSCHILD DRIVE**
**CORAL SPRINGS, FL 33067**

cc: **ENERL GROUP INC.**
**500 WEST CYPRUS CREEK ROAD, SUITE 100**
**FT. LAUDERDALE, FL 33309**

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MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

Mail Date: 08/04/2010

| | | |
|---|---|---|
| **Applicant** | : Scott M. Packer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7651018 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/244,824 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **668** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**Dykema Gossett, PLLC**
**39577 Woodward Avenue**
**Suite 300**
**Bloomfield Hills, MI 48304-5086**

**COPY MAILED**

MAY 27 2008

**OFFICE OF PETITIONS**

In re Application of :
Maria Casab :
Application No. 11/244,844 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. 65,354-002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed February 21, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jeffrey L. Doyle on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is advised that there is no attorney of record.

The correspondence address has been changed to that of the inventor 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: Maria Casab
2761 Greenlawn
Commerce, MI 48382

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/244,844 | 10/06/2005 | Maria Casab | 65,354-002 |

**CONFIRMATION NO. 2499**

**POWER OF ATTORNEY NOTICE**

26127
DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS, MI 48304-5086

Date Mailed: 05/27/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/21/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Guy T. Blalock | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582562 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,859 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **765** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RENNER, OTTO, BOISSELLE &
SKLAR, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland OH 44115-2191

**MAILED**

JUN 17 2010

OFFICE OF PETITIONS

In re Application of

Hartlep, et al.

Application No. 11/244,867

: DECISION ON PETITION

Filed: October 6, 2005

Attorney Docket No. **SCHWP0226USA**

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed June 19, 2009, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on July 20, 2009. A Notice of Abandonment was mailed on January 11, 2010.

The election filed April 1, 2010, is noted.

The application is being forwarded to Technology Center 3700, GAU 3735 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Lucas J. Boesel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7634930 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,881 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **571** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 |
|---|---|---|---|
| 11/244,906 | 10/05/2005 | Yang Soo Lee | 034520-002 |

CONFIRMATION NO.
2604

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

Date Mailed: November 29, 2006

## Decision Dismissing Petition under 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROCKETT & CROCKETT, P.C.
26020 ACERO
SUITE 200
MISSION VIEJO, CA 92691

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chirayarikathuveedu Sankarapillai Premachandran | : DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION |
| **Patent Number** | : 7616987 | : |
| **Issue Date** | : 11/10/2009 | : |
| **Appliction No** | : 11/244,919 | : |
| **Filed** | : 10/05/2005 | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **672** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO,CA 94111-3834

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JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Chen and Yang :
Application No.: 11/244,955 : DECISION REFUSING
Filed: October 5, 2005 : RULE 47(a) STATUS
Attorney Docket No: 021653-008200US :
For: STRAINED –INDUCED MOBILITY ENHANCEMENT NANO-DEVICE STRUCTURE AND INTEGRATED PROCESS ARCHITECTURE FOR CMOS TECHNOLOGIES

This is a decision on the petition under 37 CFR 1.47(a) filed May 19, 2006.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on October 5, 2006, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on November 15, 2005, indicating that a proper declaration executed was required as well as a surcharge of $130.00 for the late filing of the same. On May 19, 2006, the instant petition was filed, along with a request for an extension of time within the fifth month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), petitioner has not established that a diligent effort was made to locate inventor Yang. The petition only states that a previous employer of inventor Yang provided the last known address it had for inventor Yang and petitioner sent the application papers and declaration to that address. The courier advised petitioner that inventor Yang was not at that address and petitioner concludes that inventor Yang cannot be reached. As part of the diligence requirement, petitioner must make reasonable efforts to find the most current address for the non-signing inventor and detail those efforts as part of the petition. The evidence is not convincing that diligence requirement has been satisfied. Petitioner is not required to affirmatively locate the non-signing inventor, but must demonstrate that efforts were made toward that end. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent, part that:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as **internet searches**, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement.
> The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Any renewed petition under 37 CFR 1.47(a) filed must be accompanied by a statement establishing that a diligent effort was made to locate inventor Yang.

The fee for the instant petition is $200.00. Deposit account 20-1430 will be charged an additional $70.00, accordingly.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Chen and Yang :
Application No. 11/244,955 : DECISION NOTING JOINDER
Filed: October 5, 2005 :
Attorney Docket No. **021653-008200US** :
For: STRAINED-INDUCED MOBILITY ENHANCEMENT NANO-DEVICE STRUCTURE AND INTEGRATED PROCESS ARCHITECTURE FOR CMOS TECHNOLOGIES

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 30, 2006.

In view of the **joinder** of the inventor Yang, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The *Manual of Patent Examining Procedure* ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by all joint inventors is noted and made of record.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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**John R. Thompson**
**STOEL RIVES LLP**
**One Utah Center**
**201 South Main Street, Suite 1100**
**Salt Lake City UT 84111**

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
David L. **GARRETT** :
Application No. 11/244,964 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. 50763/4.4 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **David L. Garrett**
1090 East Country Road, Suite 200
Fruit Heights, Utah 84037

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**STOEL RIVES LLP**
**ONE UTAH CENTER**
**201 SOUTH MAIN STREET, SUITE 1100**
**SALT LAKE CITY, UT 84111**

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
**GARRETT** :
Application No. 11/244,964 :
Filed: October 6, 2005 :
Attorney Docket No. 50763/4.4 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2006 and re-submitted October 25, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John R. Thompson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David L. Garrett at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID L. GARRETT**
**1090 EAST COUNTRY ROAD, SUITE 200**
**FRUIT HEIGHTS, UT 84037**

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P. O. BOX 26503
AUSTIN, TX 78755-0503

Mail Date: 07/16/2010

| | | |
|---|---|---|
| **Applicant** | : Luc Absillis | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646713 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/244,969 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **750** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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JAN 22 2009

In re Application of :
Edward Norman Peters et al. :
Application No. 11/244,989 : DECISION ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 191318-1 :

This is a decision on the request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent that has issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Sabic innovative Plastics IP B.V., Netherlands and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent that has issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The petition was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Sabic Innovative Plastics IP B.V., Netherlands is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction in accordance with this decision.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : John Fred Davis | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7617526 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/244,993 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : 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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SHARON O. ROUSMANIERE
180 MIDDLETOWN ROAD
ROXBURY, NH 03431

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of :
Sharon O. Rousmaniere :
Application No. 11/244,997 : DECISION ON PETITION
Filed: October 5, 2005 :
Attorney Docket No. SOR-CON1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2006, 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 November 1, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath and declaration with surcharge, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to back to the Office of Initial Patent Examination for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OCT 23 2009

OFFICE OF PETITIONS

**JOHN M. VASUTA, CHIEF IP COUNSEL**
**BRIDGESTON AMERICAS HOLDING, INC.**
**1200 FIRESTONE PARKWAY**
**AKRON, OH 44317**

In re Application of :
**Yoichi OZAWA**, *et al.* :
Application No. 11/244,999 : DECISION ON PETITION
Filed: October 6, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **P99129US3A(P405)** :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2160 extension of time fee submitted with the petition on June 8, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application 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.

The application is being referred to Technology Center Art Unit 1796 for consideration of the amendment filed June 8, 2009.

Inquiries regarding the status or examination of the application should be directed to the examiner.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **ARTHUR M. REGINELLI**
**FIRST NATIONAL TOWER, 4TH FLOOR**
**AKRON, OH 44308**

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 0 5 2009

Neil F. Greenblum
GREENBLUM & BERNSTEIN,P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of
Hermann Albert Stitz et al.
Appl. No. 11/245,036
Filed October 7, 2005
For: METHOD FOR THREADING A MATERIAL WEB INTO A REWINDER AND REWINDER

: **ON PETITION FOR RECONSIDERATION WITHDRAWAL OF DRAWING OBJECTION UNDER 37 CFR 1.81**

This is a decision on Applicant's petition under 37 CFR 1.181(a) filed on April 27, 2009 request reconsideration and withdrawal of the pending drawing objection under 37 CFR 1.83(a) presented in the Final Office Action of February 26, 2009.

The Petition is **GRANTED.**

In the above mentioned Final Office action, the examiner has objected to the drawings under 37 CFR 1.83(a) for not showing:

a. "drawing off a start of the material at full width from a supply roll with an auxiliary device" (claim 26),

b. "an auxiliary device structured and arranged to grip a material web from the supply roll at full width in a region at the unwind station" (claim 34),

c. "the auxiliary device structured and arranqed to be guided on two movement paths which are arrange transversely with respect to a web run direction and at a predetermined distance from each other" (claim 38),

d. "a transport device" (claim 42),

e. "the auxiliary device comprising at least one of suction openings and clamping elements" (claim 47),

f. "an activation device structured and arranqed to act on the auxiliary device in the region of the unwind station" (claim 48),

g. "the activation device comprising a rotational drive structured and arranqed to be brought into an operative connection with the auxiliary device" (claim 49), and

h. "a rotational drive structured and arranqed in the reqion of the windinq position to be brouqht into an operative connection with the auxiliary device" (claim 50).

Applicant asserts that the pending drawings are fully in compliance with 37 CFR 1.83(a) and that the drawings, when reviewed in conjunction with the description of the same in the specification, show each recited feature of the pending claims in order to facilitate understanding of the invention. Applicant's assertions are agreed with for the following reasons:

With respect to items a and b, applicant points out that Figure 1 illustrates auxiliary device 21 which is in contact with web 9 and which is movable to positions 21a, 21b, and 21c and that paragraph 53 describes the auxiliary device gripping the material at full width. It is acknowledged that the auxiliary device is shown in Fig. 1 as element 21 at a position adjacent the unwind station 2 to draw off a start of the material web at full width and that this, along with the figures, is deemed sufficient for a proper understanding of the invention in that the auxiliary device extends into the page for a distance to cover the full width of the material web.

With respect to items c and d, applicant asserts that Fig 1 read together with paragraph 47 show the movement paths 22 in Fig. 1, one behind the other spaced along the width direction of the material web. Applicant also asserts that the transport device which is disclosed as "a chain, a belt or a cable can also be led along the movement path" (paragraph 47) led along movement path 22 are conventional features disclosed in the description and claims whose detailed illustration is not essential for a proper understanding of the invention and that illustration in the form of a graphical drawing symbol is acceptable under the rules. This is agreed with.

With respect to item e, applicant asserts that the suction openings and clamping elements are conventional features disclosed in the description and claims whose detailed illustration is not essential for a proper understanding of the invention and that illustration in the form of a graphical drawing symbol is acceptable under the rules. Furthermore, since they are features on the auxiliary device 21 which is clearly shown, applicant's assertion is agreed with.

With respect to items f, g, and h, applicant asserts that the activation device is a drive for rotating the auxiliary device 21 (paragraph 48) which is a conventional feature disclosed in the description and claims whose detailed illustration is not essential for a proper understanding of the invention and that illustration in the form of a graphical drawing symbol is acceptable under the rules. Applicant's assertion is agreed with.

The application will be forwarded to the Examiner for reconsideration on the merits consistent with this decision.

**Summary**: The petition is **Granted**.

Any questions regarding this decision should be directed to John Q. Nguyen at 571-272-6952.

Katherine Matecki

for Frederick R. Schmidt, Director
Technology Center 3600
571-272-5150

jqn: TL

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1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Hirokazu Sakai | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7612141 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,071 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE NW
SUITE 700
WASHINGTON, DC 20036

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JUN 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Atsushi Yamamoto et al :
Application No. 11/245,088 : DECISION GRANTING PETITION
Filed: October 7, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 053212 :

This is a decision on the petition, filed June 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on May 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\june10\245088.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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14TH FLOOR
VIENNA VA 22182-6212

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of Einamo :
Application No. 11/245,107 : Decision on Petition
Filing Date: October 7, 2005 :
Attorney Docket No. 060282.00262 :

This is a decision on the petition filed April 4, 2008, which is being treated as a petition under 37 CFR 1.181 to withdraw and re-mail the Office action mailed October 18, 2007, and refund the extension of time payment submitted April 4, 2008.

The petition is **granted.**

The Office mailed a non-final Office action on October 18, 2007. The Office action set an extendable shortened statutory period for reply of three months.

On April 4, 2008, petitioner filed a reply, request for an extension of time, and the instant petition.

Petitioner contends the non-final Office action was never received. Petitioner requests the Office re-mail the Office action in order to prepare an adequate reply to the Office action. Petitioner requests the Office refund the payment for a three-month extension of time.

The evidence is sufficient to establish non-receipt of the Office action.

The Office action mailed October 18, 2007, is hereby *withdrawn.*

The Office has credited the $1,050 extension of time payment to petitioner's deposit account.

Technology Center Art Unit 2169 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the October 18, 2007 Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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12 FEB 2008

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Jonathan A. Platt
Renner, Otto, Boisselle & Sklar, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland OH 44115

In re Application of :
FORSTER et al. :
Application No.: 11/245,152 :
Filed: October 6, 2005 : DECISION ON PETITION
Attorney Docket No.: AVERP3670WOUS :
For: RFID TAG USING A SURFACE :
INSENSITIVE ANTENNA STRUCTURE :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 5, 2007 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1)

An amendment adding a reference to the prior-filed nonprovisional application (10/410,252) to the first sentence of the specification following the title has been included in a concurrently filed amendment. However, inspection of the file record of International Application No. PCT/US04/11218 reveals that the benefit claim in PCT/US04/11218 to 10/410,252 fails to state the relationship of International Application No. PCT/US04/11218 to application no. 10/410,252. (See 37 CFR 1.78(a)(2)(i)) The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Since the benefit claim made in PCT/US04/11218 to 10/410,252 does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a), the benefit claim may not be properly added in the instant case.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted in the present case, applicant must correct the benefit claim in PCT/US04/11218. Applicant may wish to considering filing a petition under 37 CFR § 1.78(a)(3) in International Application No. PCT/US04/11218 indicating the relationship to application no. 10/410,252. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: PCT

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Boris Milef
Legal Examiner
PCT Legal Administration

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. |
|---|---|---|---|---|
| 11/245,179 | 10/07/2005 | Junichi Hirakata | HITA.0749 | 3735 |

38327 7590 08/05/2009

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

| EXAMINER | |
|---|---|
| PATEL, NITIN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/05/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria VA 22314-1437

In Re Application of :
HIRAKATA, JUNICHI, et al. :
Application Serial No. 11/245,179 :
Filed: October 7, 2005 :
For: **LIQUID CRYSTAL DISPLAY DEVICE** :

DECISION
ON PETITION

This is a response to the petition to expunge incorrect information disclosure statement (IDS) filed July 29, 2009, pursuant to 37 CFR §1.59(b).

Petitioner requests that the IDS filed July 27, 2009 be expunged from the record.

Petitioner states that the IDS was erroneously filed in the instant application and should not be considered.

The petition fails to meet the requirements set forth in MPEP 724.05 (II), which states in part:

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

Petitioner has not met the requirements of items B, C, and D.

Accordingly the petition is **DISMISSED**.

Any request for reconsideration must include the requirements as outlined above.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

DTo

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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**OFFICE OF PETITIONS**

In re Application of :
Toshihiro Sato :
Application No. 11/245,203 : DECISION DISMISSING
Filed: October 7, 2005 : PETITION
Attorney Docket No. 520.41441CC2 :

This is a decision on the petition filed January 9, 2006, requesting that the above-identified application be accorded a filing date of October 7, 2005, with Page 31 of the specification as a part of the original disclosure.

The application was filed October 7, 2005. On November 7, 2005, however, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of October 7, 2005, but that, Page 31 of the specification (description and claims) appeared to have been omitted from the application.

In response, petitioner argues that a complete application was present on October 7, 2005, for filing date purposes and points to their postcard receipt as evidence that Page 31 of the specification was among the application papers filed on October 7, 2005.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioners' postcard receipt does not bear an Office-date stamp from the USPTO. As such, the postcard receipt does not serve as evidence that the items listed therein were received in the USPTO.

Petitioner also asserts that the entire disclosure of the parent application was incorporated by reference into the instant continuation application.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

A review of the application-as-filed reveals that the instant continuation application contained such a statement. Obviously, in view of the incorporation by reference of the prior application, a complete application was present on October 7, 2005 and the application as filed is entitled to a filing date of October 7, 2005.

The application will be processed and examined with page 31 of the specification as a part of the original disclosure. Applicants may file an amendment to include page 31 of the specification without a petition.

The petition is **GRANTED**.

Since the petition was required however and since the error occurred through no wrongdoing on the part of the USPTO, the petition fee in the amount of $400.00 has been applied and cannot be refunded.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 7, 2005, using the application papers received in the Office on that date and with an indication in Office records that Page 31 of the specification while not included with the application papers upon filing, was a part of the original disclosure.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chul-jun Park | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668206 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/245,221 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1174** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Toru Takahashi et al | : | |
| Application No. 11/245,235 | : | DECISION GRANTING PETITION |
| Filed: October 7, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. WL-100-02 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on December 6, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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OCT 01 2008

In re Application of :
Merzenich, et al. :
Application No. 11/245,253 : DECISION ON PETITION
Filed: October 6, 2005 :
Attorney Docket No. NRSC.0202 :

This is a decision on the petition under 37 CFR 1.182, filed September 8, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 3714 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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 |
|---|---|---|---|---|---|---|
| 11/245,253 | 10/06/2005 | 3714 | 1125 | NRSC.0202 | 30 | 2 |

**CONFIRMATION NO. 3567**

**CORRECTED FILING RECEIPT**

23669
HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

Date Mailed: 09/30/2008

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)**

Michael M. Merzenich, San Francisco, CA;
Justin F. Char, San Francisco, CA;
Daniel M. Goldman, San Francisco, CA;
Joseph L. Hardy, El Cerrito, CA;
Daniel P. Harrington, San Francisco, CA;
Henry W. Mahncke, San Francisco, CA;
Jeffrey S. Zimman, San Francisco, CA;

**Assignment For Published Patent Application**

Posit Science Corporation
Neuroscience Solutions Corporation, San Francisco, CA

**Power of Attorney:** The patent practitioners associated with Customer Number 23669

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/032,894 01/11/2005
which is a CIP of 10/894,388 07/19/2004
which claims benefit of 60/536,129 01/13/2004
and claims benefit of 60/536,112 01/13/2004
and claims benefit of 60/536,093 01/13/2004
and claims benefit of 60/549,390 03/02/2004
and claims benefit of 60/558,771 04/01/2004
and claims benefit of 60/565,923 04/28/2004
and claims benefit of 60/575,979 06/01/2004
This application 11/245,253
is a CIP of 11/231,132 09/20/2005
which is a CIP of 11/032,894 01/11/2005

This application 11/245,253
claims benefit of 60/680,127 05/12/2005
and claims benefit of 60/658,308 03/02/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/09/2005
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/245,253**
**Projected Publication Date:** Not Applicable
**Non-Publication Request:** No
**Early Publication Request:** No
**** SMALL ENTITY ****
**Title**

Method for enhancing memory and cognition in aging adults

**Preliminary Class**

434

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative,

this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,263 | 10/07/2005 | Alice P. Hudson | | 3509 |

7590 11/07/2007

Alice P. Hudson
1303 Park Lane South
Jupiter, FL 33458

| EXAMINER | |
|---|---|
| BOYER, CHARLES I | |
| ART UNIT | PAPER NUMBER |
| 1796 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/07/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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| | | | |
|---|---|---|---|
| In re application of: | Alice P. Hudson | : | |
| Serial No. | 11/245,263 | : | DECISION ON |
| Filed: | October 7, 2005 | : | PETITION |
| For: | MICROEMULSIONS CONTAINING ALKOXYLATED AMINE CARBOXYLATES | : | |

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed on October 25, 2007. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed October 18, 2007, be withdrawn since the applicant did not receive the Office Action mailed June 6, 2007.

**DECISION**

Since the petitioner asserts that the applicant did not receive the Office Action mailed June 6, 2007, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action.

As set forth in MPEP § 711.03(c) - PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION:

> "The showing required to establish the 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 the practitioner's statement."

The evidence presented by the petitioner fails to comply with the requirements set forth in MPEP § 711.03(c). The evidence presented is insufficient to establish that the Office Action mailed June 6, 2007 was not received at the correspondence address. The evidence provided includes a statement that the Office Action mailed June 6, 2007 was not received. The instant petition does not contain a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received as is required by MPEP § 711.03(c) nor does it include 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 the practitioner's statement.

Therefore, the status of this application remains ABANDONED.

The Petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Alice P. Hudson
1303 Park Lane South
Jupiter FL 33458

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alice P. Hudson
1303 Park Lane South
Jupiter, FL 33458

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of
Alice P. Hudson
Application No. 11/245,263
Filed: October 7, 2005
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed December 3, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed June 6, 2006, which set a shortened period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on July 7, 2006. A Notice of Abandonment was mailed on October 18, 2007.

A grantable petition under 37 CFR 1.137(a)[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(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

**The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.**

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[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.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

**The standard**

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

**Application of the standard to the current facts and circumstances**

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the Notice of Non-Compliant Amendment was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish nonreceipt of an Office communication must include a statement from the fractioned stating that the Office communication was not received by the practioner 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 practioner's statement.

In this case, where petitioner is a pro se applicant, petitioner may satisfy these requirements by offering a statement that petitioner records where searched, but the Office communication was not found and providing a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. A renewed petition under 37 CFR 1.137(a) should provide all the requested evidentiary documents. It is noted that petitioner states that no docketing records are kept. The unavoidable standard is an exacting legal standard that requires petitioner demonstrate that petitioner treated that application as her most important business. Arguably, this may include keeping accurate records of what is received from the USPTO and what is mailed to the USPTO. Petitioner's failure to keep records regarding the same is, arguable, imprudent, and belies petitioner's claim that the delay in responding to the Notice of Non-Compliant Amendment was unavoidable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

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.*

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

# Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Alice P. Hudson
1303 Park Lane South
Jupiter, FL 33458

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of
Alice P. Hudson
Application No.: 11/245,263
Filed: October 7, 2005
Attorney Docket No:

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed January 9, 2008.

The petition under 37 CFR 1.137(b) is **granted**.

A "Notice of Non-Compliant Amendment" (the "Notice") was mailed by the Office on June 6, 2006, allowing a shortened period of reply of one-month (1) from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period, and the application became abandoned on July 7, 2006. A Notice of Abandonment was mailed on October 18, 2007.

This application is being forwarded to the Office of Patent Application Processing for further review.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 20 2006

**OFFICE OF PETITIONS**

In re Application of :
GRINBERG et al :
Application No.: 11/245,268 : DECISION ON PETITION
Filing Date: October 5, 2005 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: FC0020USNA :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 mailed November 14, 2005, which set a two (2) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on January 15, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and surcharge; (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 is accepted as having been unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
LAW et al :
Application No.: 11/245,269 : DECISION ON PETITION
Filing Date: October 5, 2005 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: FC0034 US NA :

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 14, 2005, which set a two (2) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on January 15, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the declaration filed with the petition is an improper composite declaration, consisting of two of Page 1 and one of Page 2. Each inventor must be presented with a complete declaration which lists all of the inventors, and the signature of each inventor must appear on at least one complete declaration. Multiple complete declarations may be submitted, but it is not permissible to combine pages of separate documents.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Any 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 to:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
LAW et al :
Application No.: 11/245,269 : DECISION ON PETITION
Filing Date: October 5, 2005 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: FC0034 US NA :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 12, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 14, 2005, which set a two (2) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on January 15, 2006.

The renewed 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 surcharge; (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 is accepted as having been unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Dilworth & Barrese, LLP**
**333 Earle Ovington Blvd.**
**Suite 702**
**Uniondale, NY 11553**

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
Sunnie K. Jeon :
Application No. 11/245,277 : DECISION ON PETITION
Filed: October 6, 2005 :
Attorney Docket No. 1266-7 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2006. Accordingly, the date of abandonment of this application is January 4, 2007. A Notice of Abandonment was mailed on February 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

OIPE IAP22 JAN 04 2008 PATENT & TRADEMARK OFFICE

TDDAC (I)

PTO/SB/64 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 1266-7

First named inventor: Sunnie K. Jeon

Application No.: 11/245,277 Art Unit: 1722

Filed: October 6, 2005 Examiner: Heckenberg, Jr., Donald

Title: ELECTROMOTION ICE-CREAM DISHER

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

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
- [x] Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- [ ] Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):
- [ ] has been filed previously on _____.
- [x] 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.*

01/04/2008 HVUONG1 00000013 11245277
01 FC:2453 770.00 OP

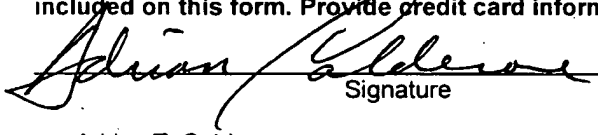
3. Terminal disclaimer with disclaimer fee

☑ 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: 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 — January 2, 2008 (Date)

Adrian T. Calderone — Typed or printed name

31,746 — Registration Number, if applicable

Dilworth & Barrese, LLP — Address

516-228-8484 — Telephone Number

333 Earle Ovington Blvd., Uniondale, NY 11553 — Address

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☑ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

January 2, 2008
Date

Signature

Adrian T. Calderone
Typed or printed name of person signing certificate

O.I.P.E. JAN 04 2008 PATENT & TRADEMARK OFFICE

# PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE**
**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, Virginia 22313-1450**
**or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

28249 7590 10/03/2006

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

01/04/2008 EAYALEW2 00000040 11245277

01 FC:2501 720.00 OP
02 FC:1504 300.00 OP

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Adrian T. Calderone (Depositor's name)
(Signature)
January 2, 2008 (Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,277 | 10/06/2005 | Sunnie K. Jeon | 1266-7 | 5003 |

TITLE OF INVENTION: ELECTROMOTION ICE-CREAM DISHER

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | YES | ~~$700~~ $720 | $300 | $0 | ~~$1000~~ $1,020 | 01/03/2007 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|---|---|---|
| HECKENBERG JR, DONALD H | 1722 | 425-279000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Dilworth & Barrese, LLP
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☒ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 04-1121 (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature Adrian Calderone Date January 2, 2008

Typed or printed name Adrian T. Calderone Registration No. 31,746

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,277 | 10/06/2005 | Sunnie K. Jeon | 1266-7 | 5003 |

28249 7590 02/05/2007
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE, NY 11553

| EXAMINER | |
|---|---|
| HECKENBERG JR, DONALD H | |
| **ART UNIT** | **PAPER NUMBER** |
| 1722 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/05/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

| Notice of Abandonment | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/245,277 | Sunnie Kl. Jeon | |
| | Examiner | Art Unit | |
| | HECKENBERG JR | 1722 | |

*– 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:

AG

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.

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11245277 Total Records Found: 8

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 01/04/2008 | 00000016 | 1 | 2453 | $770.00 | 01/04/2008 | CK |
| 01/04/2008 | 00000054 | 1 | 2501 | $720.00 | 01/04/2008 | CK |
| 01/04/2008 | 00000055 | 1 | 1504 | $300.00 | 01/04/2008 | CK |
| 05/02/2006 | 00000057 | 1 | 2051 | $65.00 | 05/01/2006 | CK |
| 05/02/2006 | 00000058 | 1 | 2254 | $795.00 | 05/01/2006 | CK |
| 10/11/2005 | 00000289 | 1 | 2011 | $150.00 | 10/06/2005 | CK |
| 10/11/2005 | 00000290 | 1 | 2111 | $250.00 | 10/06/2005 | CK |
| 10/11/2005 | 00000291 | 1 | 2311 | $100.00 | 10/06/2005 | CK |

# Attorney/Agent Information for 11/245277

## Customer # 28249

| Attorney/Agent Name | Attorney/Agent Registration Number | Attorney/Agent Telephone Number |
|---|---|---|
| BARRESE, ROCCO | 25253 (Attorney) | (516)228-8484 |
| DILWORTH, PETER | 26450 (Attorney) | (516)228-8484 |
| KAPLAN, GEORGE | 28375 (Attorney) | (212)799-1387 |
| CALDERONE, ADRIAN | 31746 (Attorney) | (516)228-8484 |
| POKALSKY, ANN | 34697 (Attorney) | (516)228-8484 |
| LENNA, LEO | 42796 (Attorney) | (516)228-8484 |
| SORELL, PETER | 44349 (Attorney) | (212)209-4820 |
| NGUYEN, KIM | 47821 (Agent) | (631)962-2000 |
| TOMIC, JAKSHA | 53696 (Attorney) | (516)228-8484 |
| FALLON, PETER | 58331 (Attorney) | (516)228-8484 |



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**Attorney Docket #** [ ] Search

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# Correspondence Address for 11/245277

| Customer Number | Contact Information | Address |
|---|---|---|
| 28249<br>Delivery Mode: PAPER | Telephone: (516)228-8484<br>Fax: (516)228-8516<br>E-Mail: hharrison@dilworthbarrese.com | DILWORTH & BARRESE, LLP<br>333 EARLE OVINGTON BLVD.<br>SUITE 702<br>UNIONDALE NY 11553 |

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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**PCT /** [ ] / [ ] Search **or PG PUBS #** [ ] Search

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OIPE IAP66 MAY 01 2006 PATENT & TRADEMARK OFFICE

Docket No. 1266-7 (KP-US-0929)

PTO/SB/01 (6/95)

# DECLARATION/POWER OF ATTORNEY

AS A BELOW NAMED INVENTOR, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name.

I believe that I am the original, first and sole *(if only one name is listed below)*, or an original, first and joint inventor *(if plural names are listed below)*, of the subject matter, which is claimed and for which a patent is sought on the invention entitled:

*TITLE:* **ELECTROMOTION ICE-CREAM DISHER**

the specification of which either is attached hereto or indicates an attorney docket no. 1266-7 (KP-US-0929) or: was filed in the ☐ U.S. Patent & Trademark Office on October 6, 2005 and assigned Serial No.: 11/245,277 ☐ and *(if applicable)* was amended on _____.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information, which is material to patentability and to the examination of this application in accordance with Title 37 of the Code of Federal Regulations §1.56. I hereby claim foreign priority benefits under Title 35, U.S. 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, or §119(e) of any United States provisional application(s), listed below and have also identified below any foreign applications for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

| | | | **Priority Claimed:** |
|---|---|---|---|
| 2004/80670 | REPUBLIC OF KOREA | 9 OCTOBER 2004 | Yes [X] No [ ] |
| *(Application Number)* | *(Country)* | *(Day/Month/Year filed)* | |
| | | | Yes [ ] No [ ] |
| *(Application Number)* | *(Country)* | *(Day/Month/Year filed)* | |

I hereby claim the benefit under Title 35, U.S. Code, §120, of any United States application(s), or §365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, U.S. Code, §112, I acknowledge the duty to disclose information material to patentability as defined in Title 37, The Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT International filing date of this application:

| | | |
|---|---|---|
| *(Application Serial Number)* | *(Filing Date)* | *(STATUS: patented, pending, abandoned)* |

## POWER OF ATTORNEY

I/we hereby revoke all previous Powers of Attorney in the above-identified application.

I/we hereby appoint the practitioners associated with Customer No. 28249 as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to the address associated with Customer No. 28249.

## DECLARATION

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 §1001 of Title 18 U.S. Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF FIRST OR SOLE INVENTOR: Sunnie K. JEON  Citizenship: U.S.A.

Inventor's signature: Sunnie K Jeon  Date: _____

Residence & Post Office Address: 20294 Via Cellini
Northridge, CA 91326 USA

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

# NOTICE OF ALLOWANCE AND FEE(S) DUE

28249 7590 10/03/2006

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

| EXAMINER | |
|---|---|
| HECKENBERG JR, DONALD H | |
| ART UNIT | PAPER NUMBER |
| 1722 | |

DATE MAILED: 10/03/2006

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,277 | 10/06/2005 | Sunnie K. Jeon | 1266-7 | 5003 |

TITLE OF INVENTION: ELECTROMOTION ICE-CREAM DISHER

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | YES | $700 | $300 | $0 | $1000 | 01/03/2007 |

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**



PTOL-85 (Rev. 07/06) Approved for use through 04/30/2007.

## PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail** **Mail Stop ISSUE FEE**
**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, Virginia 22313-1450**
**or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

28249 7590 10/03/2006

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,277 | 10/06/2005 | Sunnie K. Jeon | 1266-7 | 5003 |

TITLE OF INVENTION: ELECTROMOTION ICE-CREAM DISHER

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | YES | $700 | $300 | $0 | $1000 | 01/03/2007 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|---|---|---|
| HECKENBERG JR, DONALD H | 1722 | 425-279000 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,277 | 10/06/2005 | Sunnie K. Jeon | 1266-7 | 5003 |

28249 7590 10/03/2006

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

| EXAMINER | |
|---|---|
| HECKENBERG JR, DONALD H | |
| ART UNIT | PAPER NUMBER |
| 1722 | |

DATE MAILED: 10/03/2006

**Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)**
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.



PTOL-85 (Rev. 07/06) Approved for use through 04/30/2007.

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hartwig Kaschub | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7625423 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,286 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **646** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

COPY MAILED

OCT 0 4 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Berman | : | |
| Application No. 11/245,297 | : | DECISION ON PETITION |
| Filed: October 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 56508.04900 | : | FROM RECORD |
| | : | |

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 B. Johnson on behalf of all attorneys of record.

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.

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
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

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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 |
|---|---|---|---|
| 11/245,297 | 10/05/2005 | Arthur Berman | 356508.04900 |

**CONFIRMATION NO. 3280**

*OC000000020661745*

*OC000000020661745*

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/02/2006

## 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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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,301 | 10/06/2005 | Rika Kusuda | JP920040098US1 | 3284 |

27431 7590 09/18/2008

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

| EXAMINER | |
|---|---|
| BARRON JR, GILBERTO | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2132 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/18/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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SEP 17 2008

TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 Research Drive
Irvine, CA 92618

In re Application of: Rika Kusuda
Application No. 11/245,301
Filed: October 6, 2005
For: TRACE INFORMATION COLLECTION SYSTEM, METHOD AND PROGRAM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 11, 2008, to make the above-identified application special.

The request and petition are **GRANTED.**

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO Patent Office (hereinafter, 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).

DECISION:

The request met all the above criteria. Accordingly, the request and petition are **GRANTED.**

Telephone inquiries concerning this decision should be directed to Albert DeCady, Supervisory Patent Examiner, at 571-272-3819

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.

Albert DeCady
Supervisory Patent Examiner A. U. 2121

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/02/2010

| | | |
|---|---|---|
| **Applicant** | : Ratapon Satrusajang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623873 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/245,335 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/245,337 | 10/07/2005 | Kwang-min Kim | 0001.1098 | 3872 |

7590 02/18/2009

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

| EXAMINER | |
|---|---|
| RAHMAN, MOHAMMAD L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 4171 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/18/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
02/19/2009 0030066846

Credit Card Refund Total: $950.00

Am Exp..: XXXXXXXXXXX1002

Adjustment date: 02/19/2009 NFARMER
10/12/2005 MAHMED1 00000046 11245337
02 FC:1111 -500.00 OP
04 FC:1201 -400.00 OP
05 FC:1202 -50.00 OP

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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** | : Xian J. Ning | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663159 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,339 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Masahiko Harumoto | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7597491 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,347 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/06/2005 | : 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 05/18/2010

**Applicant** : Masahiko Harumoto
**Patent Number** : 7597491
**Issue Date** : 10/06/2009
**Application No**: 11/245,347
**Filed** : 10/06/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **995** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Application :
Bell, et al. :
Application No. 11/245,371 : PATENT TERM ADJUSTMENT
Filed: October 6, 2005 :
Dkt. No.: SOFT-01002US5 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 1, 2010.

Applicants submit that the correct patent term adjustment to be indicated on the patent is 455 days, not 300 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Requests for reconsideration of the patent term adjustment require the submission of the required application for patent term adjustment application fee of $200.00. See, 37 CFR 1.705(b)(1) and 1.18(e).

The instant request for reconsideration of the patent term adjustment lacks the required fee and is thus subject to dismissal. While the application for patent term adjustment includes an authorization to charge the required application fee to Deposit Account No. 06-1325, the authorization is not signed by an authorized account user.

The application file 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) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown
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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WEST PALM BEACH, FL 33402-3188

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of :
Volodymyr Redko, et al. :
Application No. 11/245,398 : DECISION ON PETITION
Filed: October 6, 2005 :
Attorney Docket No. 8040-3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 5, 2006. Accordingly, the date of abandonment of this application is January 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; 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 April Wise at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: NEIL R. JETTER
AKERMAN SENTERFITT
222 LAKE VIEW AVENUE
SUITE 400
WEST PALM BEACH, FL 33401-6183

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of :
Volodymyr Redko, et al. :
Application No. 11/245,398 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. 8040-3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 8, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Neil R. Jetter on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There 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: VOLODYMYR REDKO
4956 ROTHSCHILD DRIVE
CORAL SPRINGS, FL 33067

cc: ENERL GROUP, INC.
500 WEST CYPRUS CREEK ROAD
SUITE 100
FT. LAUDERDALE, FL 33309

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JUL 23 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Volodymyr Redko et al | : | |
| Application No. 11/245,398 | : | DECISION GRANTING PETITION |
| Filed: October 6, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 8326-4 | : | |

This is a decision on the petition, filed July 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 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2862 for processing of the request for continued examination under 37 CFR 1.114. The submission in this case is a copy of an assignment recorded after payment of the issue fee, so that the application, if allowed again, can issue in the name of the new assignee.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\july10\245398.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/245,398 | 10/06/2005 | Volodymyr Redko | 8326-4 |

**CONFIRMATION NO. 2571**

*OC000000024984157*

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 07/24/2007

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2007.

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.

Francas Hicks

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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HARNESS DICKEY & PIERCE PLC
PO BOX 8910
RESTON VA 20195

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of :
Hong, et al. :
Application No. 11/245,427 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 2557-000308/US :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 21, 2006.

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 reply in response to the Notice to File Missing Parts, mailed November 4, 2005. This Office action set a shortened period for reply of two (2) months for applicants to file filing fees, an executed oath or declaration, and a surcharge for their late filing. No reply having been received, the application became abandoned on January 5, 2006. A Notice of Abandonment was mailed on July 11, 2006.

On petition, petitioner has establish prima facie evidence in the form of an itemized, USPTO date stamped postcard receipt, to establish that a reply, including a check in the amount of $1,930, was filed on March 6, 2006. However, in order to assist the Office in locating the check, petitioner is requested to supply evidence showing when the check was cashed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

HARNESS DICKEY & PIERCE PLC
PO BOX 8910
RESTON VA 20195

In re Application of :
Hong, et al. :
Application No. 11/245,427 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 2557-000308/US :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 5, 2007.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts, mailed November 4, 2005. This Office action set a shortened period for reply of two (2) months for applicants to file filing fees, an executed oath or declaration, and a surcharge for their late filing. The total fee required by the Notice was $1,480. No reply having been received, the application became abandoned on January 5, 2006. A Notice of Abandonment was mailed on July 11, 2006.

Applicant filed a petition to withdraw the holding of abandonment on July 21, 2006, arguing that a reply and the appropriate fees were filed on March 6, 2006. In support thereof, petitioner submitted prima facie evidence in the form of an itemized, USPTO date stamped postcard receipt, establishing that a reply, including a check in the amount of $1,930, was filed on March 6, 2006.

However, the petition was dismissed in a decision mailed on October 16, 2006. It was acknowledged that petitioner demonstrated that a reply, including a check in the amount of $1,930, was timely filed. However, the decision requested that petitioner supply evidence showing that the check was cashed.

On renewed petition, petitioner acknowledges that the check was not cashed by the Office, supporting the conclusion that it was lost. However, further investigation by the undersigned has revealed that the Office did receive the proper fees totaling $1,480 on December 6, 2005. The record indicates that the declaration was no received until March 6, 2006. Accordingly, a two month extension of time in the amount of $450 would have been needed at that time to make its filing timely. Petitioner has submitted evidence that the $450 was filed on March 6, 2006 (as part of the $1,930 check), but was not cashed by the Office. In view thereof, before the petition can be granted and the holding of abandonment withdrawn, petitioner will need to submit $450 for the two month extension of time to make the March 6, 2006 declaration timely.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Hong, et al. :
Application No. 11/245,427 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 2557-000308/US :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 10, 2007.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts, mailed November 4, 2005. This Office action set a shortened period for reply of two (2) months for applicants to file filing fees, an executed oath or declaration, and a surcharge for their late filing. The total fee required by the Notice was $1,480. No reply having been received, the application became abandoned on January 5, 2006. A Notice of Abandonment was mailed on July 11, 2006.

Applicant filed a petition to withdraw the holding of abandonment on July 21, 2006, arguing that a reply and the appropriate fees were filed on March 6, 2006. In support thereof, petitioner submitted prima facie evidence in the form of an itemized, USPTO date stamped postcard receipt, establishing that a reply, including a check in the amount of $1,930, was filed on March 6, 2006.

However, the petition was dismissed in a decision mailed on October 16, 2006. It was acknowledged that petitioner demonstrated that a reply, including a check in the amount of $1,930, was timely filed. However, the decision requested that petitioner supply evidence showing that the check was cashed.

On renewed petition filed April 5, 2007, petitioner acknowledged that the check was not cashed by the Office, supporting the conclusion that it was lost. However, further investigation by the undersigned revealed that the Office did receive the proper fees totaling $1,480 on December 6, 2005. The record (petitioner's postcard receipt) indicated that the declaration was not received until March 6, 2006. Accordingly, a two month extension of time in the amount of $450 would have been needed at that time to make its filing timely. Petitioner submitted evidence that the $450 was filed as part of the $1,930 check, but was not cashed by the Office. Accordingly, petitioner was requested to supply the $450 in order to make the declaration filed on March 6, 2006 timely.

With the instant renewed petition, petitioner has submitted the $450 to cover the two month extension of time needed to make the March 6, 2006 declaration timely in response to the November 4, 2005 Notice to File Missing Parts.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Joe Matalevich | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607882 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,446 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **895** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Joseph F. Hetz
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 :
Robert Wesley Bossemeyer Jr. et al. :
Application No. 11/245,479 : DECISION ON PETITION
Filed: October 5, 2005 : TO WITHDRAW
Attorney Docket No. 8285/781 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed January 13, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with the above identified application has been revoked by the assignee of the patent application on April 3, 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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: AT&T LEGAL DEPARTMENT - T&W
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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53RD FLOOR
CHICAGO, IL 60606

| | | |
|---|---|---|
| In re Application of: | : | |
| WARD, DEBORAH | : | NOTICE OF WITHDRAWAL |
| Application No. 11/245496 | : | FROM ISSUE |
| Filed: OCTOBER 07, 2005 | : | UNDER 37 CFR § 1.313(b) |
| Attorney Docket No. 4634 P 003 | : | |

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Patricia Engle (571)-272-6660.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

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501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

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JUN 22 2009

OFFICE OF PETITIONS

In re Application :
John Nestor et al. :
Application No. 11/245,499 : DECISION ON APPLICATION
Filed: October 7, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **TTH1AUSA** :

This is in response to the "REOUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed May 20, 2009. Applicant requests that the determination of patent term adjustment be corrected from two hundred sixteen (216) days to four hundred forty-seven (447) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent

term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,566,691
Issued: July 28, 2009
Application No. 11/245,499
Filed: October 7, 2005
Attorney Docket No. TTH1AUSA

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705 INCLUDING REQUEST FOR DEFERRAL OF SAME filed on August 4, 2009, requesting that the patent term adjustment be corrected from 216 to 510 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 adjusted by five hundred ten (510) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) previously paid on May 20, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred ten (510)** 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 Deputy Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,566,691 B2

DATED : July 28, 2009

INVENTOR(S) : Nestor

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (216) days

Delete the phrase "by 216 days" and insert – by 510 days--

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 13:03:58

| PTA Calculations for Application: 11/245499 | | | |
|---|---|---|---|
| Application Filing Date: | 10/07/2005 | PTO Delay (PTO): | 343 |
| Issue Date of Patent: | 07/28/2009 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 127 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 510 |
| PTO Delay Adjustment: | 294 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
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| 73 | 06/22/2009 | MAIL-PETITION DECISION - DISMISSED | | | |
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| 68 | 05/20/2009 | ISSUE FEE PAYMENT VERIFIED | | | |
| 67 | 05/20/2009 | STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS | | | |
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| 35 | 08/11/2008 | CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE | | | |
| 34 | 07/03/2008 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 33 | 08/05/2008 | DATE FORWARDED TO EXAMINER | | | |
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|---|---|---|---|---|---|
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| 26 | 09/12/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
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| 20 | 02/15/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
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| 15 | 09/12/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
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| 7 | 12/19/2005 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 6 | 12/19/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 5 | 10/31/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 4 | 11/01/2005 | APPLICATION IS NOW COMPLETE | | | |
| 3 | 10/27/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 10/17/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : John Nestor | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7566691 | : RECALCULATION of PATENT |
| **Issue Date** | : 07/28/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,499 | : OF WYETH |
| **Filed** | : 10/07/2005 | : |
| | | : |

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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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kenneth H. Whitfield | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637917 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,523 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1038** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Vahid Saadat et al. :
Application No. 11/245,538 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. 021496-005100US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 7, 2007.

The request is **APPROVED**.

A review of the file record indicates that James M. Heslin of the firm Townsend and Townsend: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application[1]. In view of the present decision, all the attorneys associated with customer number 20350 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

The power of attorney submitted on November 25, 2005 is not acceptable since it fails to satisfy the provisions of 37 CFR 3.73(b). In this regard, the "Statement under 37 CFR 3.73(b)" does not set forth the reel and frame number where the recorded assignment appears in the assignment records of the Office. If assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. *Note* 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address noted in the petition

There are no outstanding office actions in this case.

[1] The power of attorney submitted on November 25, 2005, although accepted by the Office, is improper since it fails to comply with the provisions of 37 CFR 3.73(b). Accordingly, there is no power of attorney by a proper part in this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Vahid Saadat
12679 Kane Drive
Saratoga, CA 95070

cc: Johney Han
Levine Bagade Han LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

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Technology Center 2100

Scott C. Harris, Esq.
Law Office of Scott C. Harris, Inc.
P.O. Box 1389
Rancho Santa Fe, CA 92067

In re Application of: Randy Price, et al.
Application No.: 11/245,541
Filed: September 30, 2005
Attorney Docket No.: Curbpoint
For: SYSTEM FOR PROVIDING INFORMAITON TO LOCAL EAL ESTATE PURCHASER

**DECISION ON PETITION *UNDER 37 CFR §1.181***

This is a decision on the petition filed November 25, 2008, under 37 CFR §1.181(a), for withdrawal of the final rejection of July 25, 2008 as premature.

A review of the file record indicates that prosecution was reopened (final rejection of July 25, 2008 was withdrawn) by the Examiner in the (new) final Office action mailed on December 2, 2008. Applicant's after-final amendment filed on November 25, 2008 was entered and considered in the new final. As such relief was granted as noted in the new final rejection in paragraph 2 therein.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181(a) to invoke supervisory authority to withdraw the final rejection mailed on July 25, 2008, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The period for response ***continues to run*** from the mailing date of the final Office action of December 2, 2008. In accordance with 37 CFR § 1.136(a), an extension of time (up to three months) is available to extend the period for response until June 2, 2009. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: NAJ

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Dario Toncelli :
Application No. 11/245,555 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. SAIC 22.164

This is a decision on the petition filed, December 4, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on October 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WilmerHale / Rib-X
Phramaceuticals
60 State Street
Boston MA 02109

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OFFICE OF PETITIONS

In re Application of :
Zhang, et al. :
Application No. 11/245,561 : ON APPLICATION FOR
Filed: October 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No.7749USO1 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705" filed August 4, 2009, which is proper treated under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is a minimum of six hundred and four (604) days, not three hundred and fourteen (314) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, 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, 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].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a

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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.

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 further noted that a Request for Continued Examination (RCE) was filed in this application on February 20, 2009.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is **four hundred and sixty-eight (468) days**. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On May 5, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 314 days. Applicants timely filed the instant application for patent term adjustment[2].

Applicants dispute the reduction to the patent term adjustment of 154 days entered pursuant to 37 CFR 1.704(b) for failure to respond to a notice purportedly mailed November 28, 2005.

Applicants' argument has been considered and is well taken. A review of the Image File Wrapper (IFW) history for this application does not reveal a notice as being mailed to applicants on November 28, 2005. Thus, in this instance, applicants did not fail to engage in reasonable efforts to conclude processing such that entry of a reduction to the patent term adjustment under 37 CFR 1.704(b) would be warranted. Accordingly, the period of reduction of 154 days is being removed.

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[2] The issue fee was paid on August 4, 2009. Accordingly, applicant timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.704(b) prior to the payment of the fee set forth in 37 CFR 1.18(e).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

The 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 the 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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

| PTA Calculations for Application: 11/245561 | | | |
|---|---|---|---|
| Application Filing Date: | 10/07/2005 | PTO Delay (PTO): | 538 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 224 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 468 |
| PTO Delay Adjustment: | 154 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
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| 53 | 05/04/2009 | ISSUE REVISION COMPLETED | | | |
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| 46 | 04/07/2009 | DATE FORWARDED TO EXAMINER | | | |
| 45 | 02/20/2009 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 44 | 04/07/2009 | DATE FORWARDED TO EXAMINER | | | |
| 43 | 02/20/2009 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 42 | 04/07/2009 | DISPOSAL FOR A RCE / CPA / R129 | | | |
| 41 | 02/20/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 40 | 02/20/2009 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
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| | | NOTICE OF ALLOWANCE DATA VERIFICATION | | | |

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| 31 | 11/04/2008 | RESPONSE AFTER NON-FINAL ACTION | | 68 | 25 |
| 30 | 11/04/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 29 | 11/06/2008 | CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA) | | | |
| 28 | 11/05/2008 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 27 | 05/29/2008 | ELECTRONIC REVIEW | | | |
| 26 | 05/28/2008 | EMAIL NOTIFICATION | | | |
| 25 | 05/28/2008 | MAIL NON-FINAL REJECTION | 538 | | -1 |
| 24 | 05/22/2008 | NON-FINAL REJECTION | | | |
| 20 | 02/22/2007 | PG-PUB ISSUE NOTIFICATION | | | |
| 19 | 02/22/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 18 | 11/29/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 17 | 11/14/2006 | APPLICATION RETURN FROM OIPE | | | |
| 16 | 11/14/2006 | APPLICATION RETURN TO OIPE | | | |
| 15 | 11/14/2006 | APPLICATION DISPATCHED FROM OIPE | | | |
| 14 | 11/14/2006 | APPLICATION IS NOW COMPLETE | | | |
| 13 | 11/03/2006 | ADDITIONAL APPLICATION FILING FEES | | 2 | 11 |
| 12 | 11/03/2006 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 11 | 08/01/2006 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 10 | 08/01/2006 | ADDITIONAL APPLICATION FILING FEES | | 154 | 6 |
| 9 | 10/07/2005 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 8 | 10/07/2005 | A DOCUMENT THAT CONTAINS, AT LEAST IN PART, A WRITTEN DESCRIPTION OF AN INVENTION, AND OF THE MANNE | | | |
| 7 | 11/28/2005 | PRE-EXAM OFFICE ACTION WITHDRAWN | | | |
| 6 | 11/28/2005 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 5 | 11/21/2005 | CLEARED BY L&R (LARS) | | | |
| 4 | 10/28/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 3 | 10/28/2005 | CASE CLASSIFIED BY OIPE | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 2 | 10/22/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/07/2005 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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**P O BOX 1135**
**CHICAGO, IL 60690-1135**

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OFFICE OF PETITIONS

In re Application of :
Martin Grigorov et al :
Application No. 11/245,562 : DECISION ON PETITION
Filed: October 7, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 112701-669 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 4, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/617,021, filed October 7, 2004, as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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 benefit of 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.***

The rule (37 CFR § 1.78(a)(6)) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

A Filing Receipt, which included the priority claim to the prior-filed provisional application, was mailed on June 15, 2006.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1639 for examination in due course and 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.

Frances Hicks
Petitions Examiner
Office of Petitions

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Otis Layton
P.O. Box 7442
Bonney Lake, WA 98391

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| | | |
|---|---|---|
| In re Application of | : | |
| Otis Layton | : | |
| Application No. 11/245580 | : | ON PETITION |
| Filing or 371(c) Date: 10/07/2005 | : | |
| Title of Invention: | : | |
| MANNED/UNMANNED | : | |
| V.T.O.L. FLIGHT VEHICLE | : | |

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), August 2, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Notoce to File Corrected Application Papers ("Notice"), mailed November 8, 2005. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on January 9, 2006. A Notice of Abandonment was mailed July 18, 2006.

Applicant files the instant petition and substitute specification in response to the Notice. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for processing of the substitute specification.

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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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Benny Souder | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7610314 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,589 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

**Applicant** : Benny Souder
**Patent Number** : 7610314
**Issue Date** : 10/27/2009
**Application No**: 11/245,589
**Filed** : 10/07/2005

: 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 **543** 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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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
ROIZEN et al. : DECISION ON PETITION
Application No. 11/245,601 :
Filed: 10/06/2005 :
Docket No. 026038-000210US :

This is a decision on the petition filed December 8, 2009, which is properly treated as a petition under 37 CFR 1.705(b), requesting that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected to two hundred seventeen (217) days.

The petition to correct the initial Determination of Patent Term is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred seventeen (217) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On October 1, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 305 days.

Applicants state that a period of reduction of 88 days, pursuant to 37 CFR 1.704(c)(8) should have been entered for the filing of the Supplemental Information Disclosure Statement on September 14, 2009.

A review of the application history reveals that applicants are correct. On September 14, 2009, applicants submitted a Supplemental Information Disclosure Statement after filing a proper reply to the non-final Office action on June 18, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the Supplemental Information Disclosure Statement. Further, a review of the Supplemental Information Disclosure Statement, filed September 14, 2009, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Accordingly, a period of reduction of 88 days will be entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred seventeen (217) days.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e), as authorized. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

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 updated PALM screen

Day : Thursday
Date: 6/17/2010

# PALM INTRANET

Time: 17:03:49

| PTA Calculations for Application: 11/245601 | | | |
|---|---|---|---|
| Application Filing Date: | 10/06/2005 | PTO Delay (PTO): | 397 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 92 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 217 |
| PTO Delay Adjustment: | -88 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 77 | 06/17/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 88 | |
| 65 | 10/01/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 64 | 09/29/2009 | ISSUE REVISION COMPLETED | | | |
| 63 | 09/29/2009 | DOCUMENT VERIFICATION | | | |
| 62 | 09/29/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 61 | 09/24/2009 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 60 | 09/29/2009 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 59 | 09/29/2009 | NOTICE OF ALLOWABILITY | | | |
| 58 | 09/14/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 57 | 09/14/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 56 | 09/14/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 55 | 09/14/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 54 | 07/20/2009 | DATE FORWARDED TO EXAMINER | | | |
| 53 | 06/18/2009 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 52 | 03/31/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 51 | 03/18/2009 | MAIL NON-FINAL REJECTION | | | |
| 50 | 03/16/2009 | NON-FINAL REJECTION | | | |
| 49 | 01/13/2009 | DATE FORWARDED TO EXAMINER | | | |
| 48 | 01/09/2009 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 47 | 01/13/2009 | DATE FORWARDED TO EXAMINER | | | |
| | | REQUEST FOR CONTINUED EXAMINATION | | | |

| | | | | | |
|---|---|---|---|---|---|
| 46 | 01/09/2009 | (RCE) | | 92 | 37 |
| 45 | 01/13/2009 | DISPOSAL FOR A RCE / CPA / R129 | | | |
| 44 | 01/09/2009 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 43 | 01/09/2009 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 42 | 11/28/2008 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 41 | 11/25/2008 | ADVISORY ACTION (PTOL-303) | | | |
| 40 | 11/14/2008 | DATE FORWARDED TO EXAMINER | | | |
| 39 | 11/10/2008 | AMENDMENT AFTER FINAL REJECTION | | | |
| 38 | 11/10/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 37 | 07/09/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 36 | 07/07/2008 | FINAL REJECTION | | | |
| 35 | 04/07/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 34 | 04/07/2008 | REFERENCE CAPTURE ON IDS | | | |
| 33 | 04/07/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 0 | 31 |
| 32 | 04/30/2008 | DATE FORWARDED TO EXAMINER | | | |
| 31 | 04/07/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 23 | 04/07/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 22 | 01/23/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 21 | 01/07/2008 | MAIL NON-FINAL REJECTION | 397 | | -1 |
| 20 | 01/05/2008 | NON-FINAL REJECTION | | | |
| 17 | 12/19/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 16 | 10/15/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 06/18/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 14 | 06/14/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 07/18/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 12 | 07/18/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 11 | 01/04/2006 | APPLICATION DISPATCHED FROM OIPE | | | |
| 10 | 01/05/2006 | APPLICATION IS NOW COMPLETE | | | |
| 9 | 12/28/2005 | ADDITIONAL APPLICATION FILING FEES | | | |
| 8 | 12/28/2005 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 7 | 11/17/2005 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 5 | 10/06/2005 | PGPUBS NONPUB REQUEST | | | |
| 4 | 11/14/2005 | CLEARED BY L&R (LARS) | | | |
| 3 | 11/03/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 2 | 10/31/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/06/2005 | INITIAL EXAM TEAM NN | | | |

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EXPLANATION OF PTA CALCULATION

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**ASHBURN, VA 20147**

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**OFFICE OF PETITIONS**

In re Application of :
**IKEYA**, et al. :
Application No. 11/245,613 : DECISION GRANTING PETITION
Filed: October 7, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **YAMA:107** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 October 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **ROSSI KIMMS & MCDOWELL, LLP**
**P.O. BOX 826**
**ASHBURN, VA 20146-0826**

[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 :
Kainz, et al. :
Application No. 11/245,642 : DECISION
Filed: 7 October, 2005 :
Attorney Docket No. 20567-026001 :

This is a decision on the petition filed on 25 July, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

Petitioner's attention always is drawn to the guidance in the Commentary at MPEP §711.03(c ).[1]

---

[1] The Commentary at MPEP §711.03(c ) provides in pertinent part:

*****

**I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

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 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

***A. 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 **>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).

***B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed***

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying

Petitioner seeks to provide the documentation in compliance with the Commentary at MPEP §711.03(c )(A) and/or (B) as it is set forth on the website (and included for reference herein).

## BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 23 January, 2008, with reply due under a non-extendable deadline on or before 23 April, 2008.

The application went abandoned after midnight 23 April, 2008.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

The instant petition was filed on 25 July, 2008, with, *inter alia*, payment of fees due as the required reply and Petitioner's averment of non-receipt and search and non-discovery with a copy of the docket record for the instant application in support and a copy of Petitioner's due

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upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

***C. Treatment of Untimely Petition To Withdraw Holding of Abandonment***

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. 1.181(f).
Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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date docket in question. When considered in concert with return mail entry of the Notice of Allowance/Alllowability and Fees Due of record, Petitioner appears to comply with the guidance in the Commentary at MPEP §711.03( c), which sets forth the showing requirements herein.

The Office mailed the Notice of Abandonment on 13 August, 2008.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

## CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 13 August, 2008, Notice of Abandonment is **vacated**.

In light of payment of the fees due, the instant application is released to Publications Branch to be processed into a patent in due course.

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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).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Publications Branch where that change of status must be effected.

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[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

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[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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**LAW OFFICE OF MARK C. PICKERING**
**P.O. BOX 151440**
**SAN RAFAEL, CA 94915-1440**

**COPY MAILED**

JUN 0 3 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kainz et al. | : | DECISION ON PETITION |
| Application No. 11/245,642 | : | TO WITHDRAW |
| Filed: October 7, 2005 | : | FROM RECORD |
| Attorney Docket No. 20567-026001 | : | |

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 Law Office of Mark C. Pickering has been revoked by the assignee of the patent application on September 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: FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SAM S. HAN
SAM HAN, P.C.
330 BLOOMBRIDGE WAY
MARIETTA, GA 30066

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DEC 1 0 2008

**OFFICE OF PETITIONS**

In re Application of :
John P. Whitney :
Application No. 11/245,648 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 2044920-0022 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 19, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 20, 2008.

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 Technology Center AU 3653 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John S. Hilten
McGuire Woods LLP
1750 Tysons Boulevard, Suite 1800
McLean, VA 22102

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ARNOLD AND PORTER, LLP
555 12TH STREET, N.W.
WASHINGTON, DC 20004

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MAY 30 2008

OFFICE OF PETITIONS

Applicant: Gante, et al.
Appl. No.: 11/245,675
Filing Date: October 7, 2005
Title: PLASTIC BAG COMPRISING A FLAVORING COMPOSITION
Attorney Docket No.: 20612.0581/P30646US00
Pub. No.: 2007/0048410 A1
Pub. Date: March 1, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on May 1, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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INNOVATION COUNSEL LLP
21771 STEVENS CREEK BLVD
STE. 200A
CUPERTINO, CA 95014

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Jang-Kun Song :
Application No.: 11/245,679 : ON PETITION
Filed: October 6, 2005 :
Attorney Docket No.: PANK92290 US :

This is a decision on the petition, filed June 11, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on May 20, 2010, 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 2871 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS, NJ 07724

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Tetsuo Kikuchi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616251 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,687 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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November 2005

Grant T. Langton
JEFFER, MANGELS, BUTLER & MARMARO LLP
1900 AVENUE OF THE STARS
SEVENTH FLOOR
LOS ANGELES, CA 90067

NOV 23 2005

| | | |
|---|---|---|
| In re Application of: | : | |
| WINSTON YOUNG ET AL. | : | |
| Serial No.: 11/245,696 | : | DECISION ON PETITION TO |
| Filed: 07 October 2005 | : | MAKE SPECIAL UNDER |
| Docket: 63908-5009 | : | M.P.E.P. § 708.02 (V) and 37 |
| Title: ACOUSTIC VOLUME INDICATOR | : | C.F.R. § 1.102(d) |
| | : | |

This is a decision on the petition filed on October 7th, 2005 to make the above-identified application special because of environmental quality under MPEP § 708.02 (V) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides a) a statement that the acoustic volume indicator materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements (air, water, and/or soil); and b) an explanation of how the materiality standard is met.

For an application to be given special status under MPEP § 708.02 (V) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the petition must state that special status is sought because 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; and b) if the application 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 under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met.

The requirements of MPEP § 708.02(V) are not considered to have been met. Petitioner makes the required statement concerning the invention's material enhancement of the quality of the environment. However, petitioner's explanation of how the materiality standard is met is not sufficient.

First, the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment because there is no indication that the invention is limited to use on tanks storing liquids or gases harmful to the environment in case of leakage. The invention is directed simply to "devices designed to measure the volume of liquid or gas in a tank in a noninvasive manner" (p.1, lines 10-11; p.26, line 7). The disclosure does teach that "in certain applications" a leak of a liquid or gas "could present a health, safety or environmental risk" and that the invention "reduce[es] or eliminate[es] the possibility of a health, safety or environmental risk associated therewith" (p.21, lines 25-26); however, there is no mention of the types of liquids or gases or the specific environmental risks. On p.21, line 27-p.28, line 1, the disclosure teaches that the indicator can be used in sewage applications in containers holding a mixture of liquids and solids. Further, the potential risks to the environment are not the only concerns of the invention. The invention also eliminates the risk of contamination *by* the environment *to* the stored liquid or gas when it is of a high purity (p.1, lines 24-25).

Therefore, since it is not clear on its face that the claimed invention materially enhances the quality of the environment, the petitioner's explanation of how the materiality standard is met is examined. Petitioner describes how the noninvasive nature of the acoustic volume indicator eliminates unintended leakage of liquid or gas stored in a container into the environment. Petitioner states that "[d]epending on the type of liquid or gas stored in the tank, e.g., hydrocarbon fuels, petrochemicals, corrosive chemicals, and the like, such leakage can produce an environmental risk to the surrounding ground and air...." This *dependency* of environmental risk on *the type of liquid or gas stored in the tank* fails to meet the materiality standard. Petitioner presumes the tank stores liquids or gases such as hydrocarbon fuel, petrochemicals or corrosive chemicals. However, the disclosure does not explicitly teach these. Neither is there any indication that the invention could not be used on tanks storing liquids or gases which are not harmful to the environment should they leak, e.g., water or nitrogen. The materiality 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 materially enhance the quality of the environment. Because an end-user could use the invention on tanks storing non-harmful liquids or gases just as easily as he could on tanks storing harmful liquids or gases, the Office is left to speculate on how the invention maintains basic life-sustaining elements by preventing leakage of non-harmful liquids or gases. Therefore, the requirements of MPEP § 708.02(V) are not considered to have been met.

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include statements which clearly explain how the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Clayton E. LaBalle, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

BSM:cel

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Date Mailed : 07/31/08

Patent No. : 7374300 B2
Patent Issued : 05/20/08
Docket No. : **2133.114USU**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 07/29/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

**Charles N. J. Ruggiero, Esq.**
**Ohlandt, Greeley, Ruggiero & Perle, L.L.P.**
**10th Floor**
**One Landmark Square**
**Stamford CT 06901-2682**

LMN

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.: X**

DATE : July 23, 2008

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/245699 Patent No.: 7374300 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:** Proposed change places a company name on the inventor line. Such a change is not permitted.

/Stephone B. Allen/ — **SPE**

2872 — **Art Unit**

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**HOFFMANN-LA ROCHE INC.**
**PATENT LAW DEPARTMENT**
**340 KINGSLAND STREET**
**NUTLEY NJ 07110**

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Henner Knust et al. :
Application No. 11/245,736 : DECISION ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 22650 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 3, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Petitioner has provided a signature only on the instant petition. Accordingly, a signature only does not comply with 37 CFR 1.34 and the statement of delay is not acceptable. In this regard, "when a patent practitioner acting in a representative capacity appears in person or signs a paper in practice. . . . In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature." *See* 37 CFR 1.34 and MPEP § 402. However, petitioner has provided a signature and registration number in the document entitled "statement that entire delay was unintentional," filed concurrently with the instant petition. The document includes a statement pertaining to the delay in filing the response.

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 document filed concurrently with this petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

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JAN 29 2010

In re Application of :
Knust, et al. :
Application No. 11/245,736 : ON APPLICATION FOR
Filed: October 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 22650 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b), filed November 3, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred eighty-eight (888) days[1], not three hundred eighty-five (385) 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). 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

[1] This calculation is based on a projected issuance date of February 23, 2010 and a miscalculation of the 14 month Office delay period, which is measured from December 8, 2006 to June 3, 2008 and is 544 days, not 543 days as applicants argue.

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 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[2].

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).

---

[2] 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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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**HOFFMANN-LA ROCHE INC.**
**PATENT LAW DEPARTMENT**
**340 KINGSLAND STREET**
**NUTLEY NJ 07110**

**MAILED**

**JUL 14 2010**

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Patent No. 7,671,048 | : DECISION ON REQUEST |
| HENNER KNUST et al. | : FOR |
| Issue Date: March 2, 2010 | : RECONSIDERATION OF |
| Application No. 11/245,736 | : PATENT TERM ADJUSTMENT |
| Filed: October 7, 2005 | : and |
| Atty Docket No. | : NOTICE OF INTENT TO ISSUE |
| 22650 | : CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on April 6, 2010, 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 sixty-seven (967) days. For the reasons explained below, the petition will be treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred thirty-three (833) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred thirty-three (833) days is **GRANTED to the extent indicated herein**.

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.

Patentees aver that an additional period of reduction for Applicant delay should be entered due to abandonment and revival of a patent application.

37 CFR 1.704 (c) (3) states, in pertinent part, that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any,

beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of the date of mailing of the decision reviving the application or accepting late payment of the issue fee.

The application became abandoned as a matter of law on September 4, 2008, for failure to timely submit a proper reply to the non-final Office action mailed on June 3, 2008, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Patentees are reminded that abandonment occurs by operation of law for failure to reply within the time period provided, not by the mailing of a Notice of Abandonment. A Notice of Abandonment was mailed on January 16, 2009. A decision granting the applicants' petition to revive the application was mailed on April 13, 2009. Accordingly, entry of a period of reduction of 222 days for applicant delay, from September 4, 2008, the date the application became abandoned, until April 13, 2009, the date a decision granting the petition to revive the application, is warranted.

In view thereof, the patent term adjustment is 833 days (1055 days of Office delay less 222 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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 file 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 reduced or adjusted by **eight hundred thirty-three (833) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,671,048 B2

DATED : March 2, 2010 **DRAFT**

INVENTOR(S) : HENNER KNUST 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 reduced or adjusted under 35 USC 154(b) by 1055 days.

Delete the phrase "by 1055 days" and insert – by 833 days--

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**Rutan & Tucker, LLP**
**611 Anton Boulevard**
**Suite 1400**
**Costa Mesa, CA 92626**

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OFFICE OF PETITIONS

In re Application of :
Philip Cacayorin :
Application No. 11/245,743 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 101264.0001US2 : 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 4, 2009.

The request is **NOT APPROVED.**

A review of the file record indicates that Todd W. Wight 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: Robert Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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**611 Anton Blvd.**
**Suite 1400**
**Costa Mesa, CA 92626**

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OFFICE OF PETITIONS

In re Application of :
Philip Cacayorin :
Application No. 11/245,745 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 101264.0001US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 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. 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 Todd W. Wight on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed January 23, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Philip Cacayorin**
**P.O. Box 376**
**White Salmon, WA 98672**

cc: **Rutan & Tucker, LLP**
**611 Anton Blvd.**
**Suite 1400**
**Costa Mesa, CA 92626**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/245,745 | 10/07/2005 | Philip Cacayorin | 101264.0001US1 |

**CONFIRMATION NO. 5323**

**POWER OF ATTORNEY NOTICE**

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

Date Mailed: 04/09/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

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Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of :

**CACAYORIN**, Philip :
Application No. 11/245,747 : DECISION ON PETITION
Filed: October 07, 2005 : TO WITHDRAW
Attorney Docket No. **101264.0001US3** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 04, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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 acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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: **ROBERT FISH**
**FISH & ASSOCIATES, PC**
**2603 MAIN STREET**
**SUITE 1050**
**IRVINE CA 92614**

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SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Scott W. Lewis :
Application No. 11/245,756 : DECISION ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 3448P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

**The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.**

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). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 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 Notice of Appeal; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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 application is being referred to Technology Center AU 2873 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Joseph A. Sawyer, Jr.
2465 East Bayshore Road, Suite 406
Palo Alto, CA 94303

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
25 James Way
Eatontown, NJ 07724

Mail Date: 07/26/2010

| | | |
|---|---|---|
| **Applicant** | : Nagesh R. Basavanhally | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649670 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/245,761 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : 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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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Armando M. Cappa | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7633023 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,770 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1046** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Salvaraj Naicker et al :
Application No. 11/245,775 :
Filed: October 6, 2005 :
Attorney Docket No. 16593-002007

This is a decision on the petition, filed February 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 December 21, 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 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KENNETH L. TOLAR
2908 Hessmer Avenue
Metairie LA 70002

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OFFICE OF PETITIONS

In re Application of :
Abel Beauchamp :
Application No. 11/245,785 : DECISION ON PETITION
Filed: September 2, 2005 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.10(i) to accord the subject application a filing date of September 2, 2005, rather than the currently accorded filing date of October 7, 2005.

The petition is **granted**.

The above-cited application was filed with the United States Postal Service (USPS), Express Mail Service on October 7, 2005, and accorded a filing date of that same date. Applicant files the instant petition requesting that the application filing date be changed to September 2, 2005. Applicant states that the application would have been deposited with the USPS, Express Mail Service on September 2, 2005, but for Hurricane Katrina that resulted in the closure of USPS facilities in affected areas of Louisiana, Alabama, and Mississippi. Applicant now requests a filing date of September 2, 2005, pursuant to 37 CFR 1.10(i).

Title 37, Section 1.10(i) of the Code of Federal Regulations reads, in pertinent part:

> Any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:
>
> (1) The petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in "Express mail" service;
>
> (2) The petition includes the original correspondence or a copy of the original correspondence, and
>
> (3) The petition includes a statement which established to the satisfaction of the Director that the correspondence would have been deposited with the USPS but for the designed interruption or emergency in "Express Mail" service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

As September 1, 2005, the Director declared the shutdown of postal facilities within USPS zip codes 36XXX, 39XXX, 700XX, 702XX, 703XX, and 704XX a postal emergency qualifying affected applicants for relief under 37 CFR 1.10(i)[1].

[1] See *Official Gazette Notice*, October 11, 2005.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of September 2, 2005.

The application file is being forwarded to the Office of Initial Patent Examination where the application will be accorded a filing date of September 2, 2005, and a corrected filing receipt generated.

Telephone injuries 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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**DARBY & DARBY P.C.**
**P.O. BOX 770**
**CHURCH STREET STATION**
**NEW YORK, NY 10008-0770**

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JUN 30 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **MILLER**, Brenda K. | : | |
| Application No. 11/245,791 | : | DECISION GRANTING PETITION |
| Filed: October 6, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **00361/1201980-US1** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on June 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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MCAFEE & TAFT
TWO LEADERSHIP SQUARE
211 NORTH ROBINSON, 10th FLOOR
OKLAHOMA CITY, OK 73102

In re Application of :
NIXON :
Application No. 11/245,800 : DECISION ON PETITION
Filed: October 6, 2005 : TO WITHDRAW
Attorney Docket No. 5290.1 : 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 June 23, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael J. LaBrie on behalf of all attorneys of record who are associated with customer No. 24919. All attorneys/agents associated with the Customer Number 24919 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 Kenneth R. Nixon at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Kenneth R. Nixon**
**Caregiver Technologies**
**13101 S. Pennsylvania Avenue, Suite 12**
**Oklahoma City, Oklahoma 73140**

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Masatoshi MASUDA :
Application No. 11/245,817 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. SCCO.031AUS : FROM RECORD
:

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 17, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Knobbe Martens Olson & Bear LLP, has been revoked by the assignee of the patent application on August 6, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address has been changed and the new correspondence address is the address indicated below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: K.A. PATENTS
8806 CAMBRIDGE AVE #1003
KANSASS, CITY MO 64138

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**PHILIP S. JOHNSON**
**JOHNSON & JOHNSON**
**ONE JOHNSON & JOHNSON PLAZA**
**NEW BRUNSWICK NJ 08933-7003**

In re Application of :
Craig N. **FALLER et al.** :
Application No. 11/245,819 : DECISION ON PETITION
Filed: October 07, 2005 :
Attorney Docket No. END5387USNP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 25, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the application became abandoned on May 26, 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 terminal disclaimer and fee of $140.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of February 25, 2009, is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3739 for processing of the terminal disclaimer.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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**PHILIP S. JOHNSON**
**JOHNSON & JOHNSON**
**ONE JOHNSON & JOHNSON PLAZA**
**NEW BRUNSWICK NJ 08933-7003**

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DEC 28 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Craig N. FALLER et al. | : | **CORRECTED** |
| Application No. 11/245,819 | : | DECISION ON PETITION |
| Filed: October 07, 2005 | : | |
| Attorney Docket No. END5387USNP | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2009, to revive the above-identified application.

The petition decision mailed December 07, 2009 is hereby **VACATED.**

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 February 25, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the application became abandoned on May 26, 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 (1).**

**Petitioner failed to provide the required reply to the final office action of February 25, 2009. A terminal disclaimer is not a proper reply to a final Office action. The terminal disclaimer is not accepted.**

**It is also noted that:**

a. **Td is directed to particular claims this is not acceptable, since the disclaimer must be of entire patent to be granted and;**

b. **Commonly owned is needed after enforceable clause the words "legal title" do not include common ownership as to equitable title, see 37 CFR 1.321 (c)(3).**

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) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 16 2006

Barry E. Negrin
Levisohn Berger & Langsam, LLP
19th Floor
805 Third Avenue
New York NY 10022

| | | |
|---|---|---|
| In re Application of | : | |
| Michael Gianturco | : | |
| Serial No.: 11/245,827 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | |
| For: Device for Manually Controlling | : | |
| Delivery Rate of a Hypodermic Syringe and | : | |
| Syringe Having Same | : | |

This is in response to the petition applicant filed on January 27, 2006 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick R. 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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FOX ROTHSCHILD LLP
997 LENOX DRIVE
BUILDING 3
LAWRENCEVILLE, NJ 08648

In re Application of :
Marcos R. Lara et al :
Application No. 11/245,830 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 5261-108US//29,979 USA : 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 May 13, 2010.

The request is **NOT APPROVED**.

The Request to Withdraw as attorney or agent filed May 13, 2010 sets forth an incorrect Customer Number; i.e., 29880 rather than 20802. Petitioner must submit a Request to Withdraw as attorney or agent with the correct Customer Number. 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 Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Richard C. Woodbridge
Fox Rothschild LLP
P.O. Box 5231
Princeton, NJ 08543

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**ROBERT A. KENT**
**P.O. BOX 1431**
**DUNCAN OK 73536**

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MAY 12 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Craig, David P. | : | |
| Application No. 11/245,839 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | |
| Attorney Docket No. 2005-IP-018456U1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 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 Issue Fee Transmittal with payment of the issue and publication fees (previously submitted on March 11, 2008), (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: BAKERS BOTTS, L.L.P.
910 LOUISIANA STREET
HOUSTON, TX 77002-4995

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 27, 2009

TO SPE OF : ART UNIT 2878
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/245841/7326911

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

Magdalene Talley
**Certificates of Correction Branch**
**703-308-9390 ext. 120**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

| | |
|---|---|
| ☒ **Approved** | **All** changes apply. |
| ☐ **Approved in Part** | Specify below which changes **do not** apply. |
| ☐ **Denied** | State the reasons for denial below. |

**Comments:** _____

_____

_____

_____

_____

Georgia Y Epps — SPE
11/24/09 — Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : 4/14/08

Patent No. : 7278792 B2
Application No : 11/245862
Inventor(s) : Takada et al.
Issued : Oct. 9, 2007
Title : **RAISED-LETTER INFORMATION PROCESSING APPARATUS, RAISED-LETTER INFORMATION PROCESSING METHOD, PROGRAM, AND STORAGE MEDIUM**
Docket No. : 81752.0176

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

**In view of the foregoing, your request is hereby denied.**

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>ATTN: Office of Petitions |

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

MFD/eme

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Alexandria, VA 22313-1450
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**HOGAN & HARTSON L.L.P.**
**1999 AVENUE OF THE STARS, SUITE 1400**
**LOS ANGELES, CA 90067**

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MAY 28 2009

**OFFICE OF PETITIONS**

In re Patent No. **7,278,792** :
Issue Date: October 9, 2007 :
Application No. 11/245,862 : DECISION ON PETITION
Filed: October 7, 2005 : UNDER 37 CFR 3.81(b)
Attorney Docket No. **81752.0176** :

This is a decision on the petition filed June 20, 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 Monica A. Graves at (571) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Brian W. Brown
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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PAUL V. KELLER, LLC
4585 LIBERTY RD.
SOUTH EUCLID OH 44121

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hu et al. | : | |
| Application Number: 11/245879 | : | ON PETITION |
| Filing Date: 10/07/2005 | : | |
| Attorney Docket Number: 05-ERC-052A | : | |

This is a decision in reference to the petition to withdraw the holding of abandonment filed on October 8, 2008.

The petition is **DISMISSED**.

This application became abandoned on February 29, 2008, for failure to submit a timely and proper response to the non-final Office action mailed on November 28, 2007, which set a three (3) month shortened statutory period for reply. An untimely amendment was filed on March 20, 2008. On August 7, 2008, a Notice Requiring Extension of Time Fee *No New Time Period is Provided* was mailed, stating that the appropriate extension of time fee was missing. Notice of Abandonment was mailed on October 6, 2008.

Petitioner asserts that the holding of abandonment should be withdrawn because the examiner agreed in writing to issue a new Office action. Additionally, petitioner asserts that it was not notified that the reply filed on March 20, 2008, was untimely, until the extendable time period for reply had expired. Specifically, petitioner argues that "[t]he Examiner's agreement, confirmed in writing, to issue a new Office action was effective to relieve the applicant of responsibility to reply to the previous Office action."

Petitioner's arguments have been considered, but are not persuasive.

At the outset, it is noted that an Interview Summary was mailed on March 20, 2008, stating that the examiner had agreed to issue a second non-final rejection to clarify the references.

Petitioners are incorrect, however, that the Interview Summary relieved them of the responsibility to timely and properly reply to the non-final Office action mailed on November 28, 2007.

37 CFR 1.135 states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

The Office action mailed on November 28, 2007, states that a shortened statutory period for reply is set to expire 3 months … from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

The showing of record is that petitioners did not timely file a reply to the non-final Office action mailed on November 28, 2007. To this end, the proposed amendment filed on March 20, 2008 was not accompanied by the required extension of time.

To this end, the promise of a new Office action did not relieve petitioners of the burden of replying in a timely and proper manner to the outstanding Office action, the response period of which remained in effect.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[1] Thus, the application became abandoned due to petitioner's failure to file a timely reply to the non-final Office action mailed on November 28, 2007.

Petitioners' assertion that the Office did not inform petitioners that the reply was untimely until after the end of the extendable period for reply is also not persuasive. To this end, although the USPTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so.[2]

---

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

[2] See In Re Columbo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994).

Rather it is the applicants who are ultimately responsible for filing proper documents.[3] As such, it is the fault of the applicant, not the USPTO, that the proper extension of time was not timely filed.

As such, the showing of record is that the application was properly held abandoned.

The petition is **DISMISSED.**

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period may not be extended.** 37 CFR 1.181(f).

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

---

[3] Id.

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| | | |
|---|---|---|
| In re Application of | : | |
| Hu et al. | : | |
| Application Number: 11/245879 | : | ON PETITION |
| Filing Date: 10/07/2005 | : | |
| Attorney Docket Number: 05-ERC-052A | : | |

This is a decision in reference to the renewed petition to withdraw the holding of abandonment filed on March 6, 2009.

The petition is again **DISMISSED**.

This application became abandoned on February 29, 2008, for failure to submit a timely and proper response to the non-final Office action mailed on November 28, 2007, which set a three (3) month shortened statutory period for reply. An untimely amendment was filed on March 20, 2008. On August 7, 2008, a Notice Requiring Extension of Time Fee *No New Time Period is Provided* was mailed, stating that the appropriate extension of time fee was missing. Notice of Abandonment was mailed on October 6, 2008. On October 8, 2008, a petition to withdraw the holding of abandonment was filed. On October 28, 2008, the petition was dismissed. On March 6, 2009, the subject renewed petition was filed.

Petitioner again asserts that the holding of abandonment should be withdrawn because the examiner agreed in the Interview Summary mailed on March 20, 2008, to mail a second non-final Office action.

It is further stated that:

> The applicant does not dispute that if the Examiner's communication of March 20, 2008 had been received six months after the Office action was issued,

> the application would be abandoned and could not be revived unless the applicant were able to satisfy the requirements for a petition to revive... But the distinction between this case and those cited by the previous decision on this petition is that the Examiner acted within the six month period.
>
> The only point that should be at issued is whether the Examiner's decision and communication of March 20, 2008 is an Office action within the meaning of:
>
> > If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will be abandoned unless an Office action indicates otherwise.
>
> 37 CFR § 1.135(a). That rule causes an application to become abandoned within a shortened statutory period for reply set by an Office action (§ 1.134) with any extensions (§ 1.136) subject to the important caveat "unless an Office action indicates otherwise."
>
> There is nothing in either the statute or the rules that requires a narrow definition of "Office action". The plain meaning of "Office action" is any decision the Office makes on a case. Here the decision was to issue a new rejection. While this decision was made in a telephone interview, the written confirmation of that decision in the interview summary mailed March 20, 2008 shoud dispel any doubt that this was an official decision on which applicant was expected to rely.

Petitioner's arguments have been again considered, but are not persuasive.

At the outset, the decision mailed on October 28, 2008, stated that any request for reconsideration must be filed within two (2) months of the date of this decision, and that this time period may not be extended. The subject petition, however, was filed over (4) months after the mailing of decision mailed on October 28, 2008. MPEP 711.03(c) states that 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Accordingly, any renewed petition must explain why this petition should not be dismissed out of hand for being untimely.

Further, as petitioners noted, the Interview Summary was mailed on March 20, 2008, stating that the examiner had agreed to issue a second non-final rejection to clarify the references.

Petitioners are incorrect, however, that the Interview Summary relieved them of the responsibility to timely and properly reply to the non-final Office action mailed on November 28, 2007.

37 CFR 1.135 states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

The Office action mailed on November 28, 2007, states that a shortened statutory period for reply is set to expire 3 months … from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

The showing of record is that petitioners did not timely file a reply to the non-final Office action mailed on November 28, 2007. To this end, the proposed amendment filed on March 20, 2008 was not accompanied by the required extension of time.

Petitioners' argument, in essence, is that the application should not be held abandoned because the Interview Summary was mailed before the expiration of the statutory (6) month period for reply to the non-final Office action mailed on November 28, 2007, and that the examiner had promised a new Office action. In essence, petitioner appears to argue that the Interview Summary itself was the new Office action.

Petitioners' argument is without merit, however, because the Interview Summary did not state that no reply to the previous Office action was required, only that a new Office action would be issued. To this end, the mere promise of a new Office action did not relieve petitioners of the burden of replying in a timely and proper manner to the outstanding Office action, the response period of which remained in effect.

The Interview Summary did not vacate the prior Office action or indicate that no proper and timely reply was required, as nothing in the Interview Summary indicates that no timely and proper reply to the Office action of November 28, 2007 was required. Rather, the showing of record suggests that the time period remained in place for filing a reply to the outstanding Office action, and the examiner had simply agreed to issue a new non-final Office action upon receipt of applicant's timely response to the outstanding Office action.

As stated previously, the showing of record is that Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[1] Thus, the application became abandoned due to petitioner's failure to file a timely reply to the non-final Office action mailed on November 28, 2007.

As such, the showing of record is that the application was properly held abandoned for failure to file a timely and proper reply to the Office action mailed on November 28, 2007.

The petition is again **DISMISSED.**

Petitioner is encouraged to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period may not be extended.** 37 CFR 1.181(f).

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

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

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

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PAUL V. KELLER
4585 LIBERTY RD.
SOUTH EUCLID, OH 44121

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DEC 29 2005

**OFFICE OF PETITIONS**

In re Application of :
Haoran Hu et al :
Application No. 11/245,880 : DECISION ON PETITION
Filed: October 7, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 05-ERC-052B : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed October 7, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment, as set forth in M.P.E.P. § 708.02, Section V.

The petition is GRANTED.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition 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 inquiries concerning this decision should be directed to Wan Laymon 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3748 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Xin Li | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7669150 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,892 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **644** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORGAN & FINNEGAN, LLP
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of :
Takashi Urakawa, et al. :
Application No. 11/245,896 : DECISION ON PETITION
Filed: October 6, 2005 :
Attorney Docket No. 1232-5746 :

This is a decision on the petition under 35 USC 254 which is being treated as a 37 CFR 1.182, filed, November 4, 2008, to correct the spelling of the name of inventor "Yoshihiroi Saito" to – Yoshihiro Saito --.

The petition is **DISMISSED**.

The issue fee in this application was paid on July 14, 2008. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the inventor's name is an amendment to the application, and amendments are not permitted after payment of the issue fee, a petition under 37 CFR 1.182 to change the inventor's name cannot be granted.

The request could not be granted because the spelling of inventor Yoshihiro Saito's name listed in the oath and declaration does not match the spelling of the inventor's name listed the application data sheet. *See* 37 CFR 1.76(d)(4). The petitioner is advised to provide a new Application Data Sheet with correction to applicant's name.

Since the misspelling of the inventor's name was not due to Patent and Trademark error, **the $400 fee for the petition under 37 CFR 1.182** and **the $100 for the certificate of correction pursuant to the provision s of 37 CFR 1.323** has been assessed to petitioner's deposit account.

Nevertheless, the petition may still be granted if a renewed petition under 37 CFR 1.182, along with the requirements listed above.

In view of the above, the petition under § 1.182 cannot be granted at this time to correct the spelling of the inventor's name.

Further correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

**MAILED**

MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Marc C. Ramacher, et al. :
Application No. 11/245,905 :
Filed: October 7, 2005 :
Attorney Docket No. 50277-2752 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed March 18, 2009, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to The Office of Data Management to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

Further correspondence with respect to this matter should be addressed as follows:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

**By Fax:** (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries regarding this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries regarding this application should be directed to the Office of Data Management.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

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MAR 0 9 2009

**OFFICE OF PETITIONS**

In re Application of :
Kamman :
Application No. 11/245,918 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No.: 81126026 :
For: FLUID RESERVOIR

This is a decision on the petition under 37 CFR 1.181, filed December 23, 2008, requesting that the Office withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Restriction Requirement, mailed February 28, 2008, which set forth an extendable one (1) month period for reply. The Office contended that this application became abandoned on March 29, 2008 for failure to reply. A Notice of Abandonment was mailed on November 25, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that an election (a proper reply) and a preliminary amendment were timely received in the Office on March 28, 2008. The undersigned finds this argument completely convincing, as the March 28, 2008 election and preliminary amendment are present in the application file.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 25, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3611 for consideration of the election and preliminary amendment filed on March 28, 2008.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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**REINHART BOERNER VAN DEUREN S.C.**
**ATTN: LINDA KASULKE, DOCKET COORDINATOR**
**1000 NORTH WATER STREET**
**SUITE 2100**
**MILWAUKEE WI 53202**

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MAR 12 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lovell et al. | : | |
| Application No. 11/245,938 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | |
| Attorney Docket No. 7350 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on February 12, 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 2855 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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& LEWIS, LLP
SUITE 3600
PHILADELPHIA, PA 19103

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| | | |
|---|---|---|
| In re Application of | : | |
| Edward G. APPEL, et al | : | |
| Application No. 11/245,939 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 3007219-0003-R | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed June 2, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Robert A. Mckinley does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EDWARD G. APPEL, ESQ.
MASCIOCCHI & APPEL
COUTLIST.COM, INC.
1326 CENTRAL AVENUE
GLENDORA, NJ 08029

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DIRECTORS OFFICE
AUG - 7 2007
TECHNOLOGY CENTER 2800

Thomas M. Champagne.
IP STRATEGIES
12 ½ Wall Street, Suite I
Asheville, NC, 28801

In re Application of:
Harold Szu
Serial No.: 11/245,946
Filed: 06 October 2005
Attorney Docket No.: **HSZPT03**

DECISION ON PETITION
FOR USE OF COLOR DRAWINGS UNDER
37 C.F.R 1.84(a)(2)

This is a decision in response to the petition under 37 C.F.R. 1.84(a)(2) filed 02 February 2007. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth an explanation regarding why the color drawings are necessary, the required fee, three sets of color drawings. The required paragraph is also provided in the Specification.

Accordingly, the color drawings are accepted as formal drawings in the above-referenced application.

David P. Porta, Supervisor
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 28 2009

OFFICE OF PETITIONS

**JONES DAY**
**222 EAST 41ST STREET**
**NEW YORK NY 10017**

In re Patent No. 7,298,097 :
Issue Date: November 20, 2007 :
Application No. 11/245,947 : NOTICE
Filed: October 6, 2005 :
Attorney Docket No. 012371-007-999 :

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 the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Hassanen, Bringham, Fishman, Goff, Kyi, Rouke, :
Carpenter, Havner, and Menn :
Application No.: 11/245,958 : DECISION ACCORDING
Filed: October 7, 2005 : RULE 47(a) STATUS
Attorney Docket No: TRME-P05-001 :
For: **SYSTEMS AND METHODS FOR EX-VIVO ORGAN CARE**

This is in response to the petition under 37 CFR 1.47(a), filed March 22, 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 October 7, 2005, without a properly executed declaration. On October 24, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration and payment of a surcharge, payment of the filing fee. The instant petition was filed responsively on March 22, 2006, with a request for an extension of time within the third month.

Petitioner has shown that inventor Menn has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The petition fee of $200.00 will be charged to deposit account 18-1945.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/245,986 | 10/07/2005 | 2833 | 0.00 | 2316.1753USC2 | 19 | 9 | 3 |

**CONFIRMATION NO. 2894**

Steven C. Bruess
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

**CORRECTED FILING RECEIPT**

*OC000000017566543*

Date Mailed: 12/02/2005

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)**

Gordon P. Clark, Eden Prairie, MN;
Loren J. Mattson, Richfield, MN;

**Assignment For Published Patent Application**

ADC Telecommunications, Inc., Eden Prairie, MN

**Power of Attorney:**

Brian Batzli--32960
Steven Bruess--34130
Julie Daulton--36414
David Schmaltz--39828
Karen Fitzsimmons--50470
Robert Kalinsky--50471

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/938,457 09/09/2004 PAT 6,974,352
which is a CON of 10/302,354 11/22/2002 PAT 6,814,624

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/01/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/245,986**

**Projected Publication Date:** To Be Determined - pending completion of Missing Parts

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Telecommunications jack assembly

**Preliminary Class**

439

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

**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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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 07 2007

OFFICE OF PETITIONS

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

In re Application of :
Jose Maria Benlloch Bavciera et al. :
Application No. 11/245,992 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 2944-1-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2006, 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, April 7, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. 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 request was submitted with the petition on November 20, 2006 was subsequent to the maximum extendable period for reply, this request is unnecessary. Accordingly, the application became abandoned on July 8, 2006. The Notice of Abandonment notice was mailed November 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2884 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Patent No. : 7,476,864 B2
Serial No. : 11/245,992
Inventor(s) : Benlloch Baviera, et al.
Issued : January 13, 2009
Title : **GAMMA RAY DETECTOR WITH INTERACTION DEPTH CODING**
Docket No. : **2944-1-001**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

*Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.*
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

**Ernest C. White, *LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

ecw

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**KLAUBER & JACKSON**
**411 HACKENSACK AVENUE**
**HACKENSACK NJ 07601**

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NOV 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,476,864
Application No. 11/245,992
Filed: October 7, 2005
Issued: January 13, 2009
Attorney Docket No. 2944-1-001

ON PETITION

This is a decision on the petition filed April 29, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Additionally, petitioner's deposit account has been charged the required $100.00 Certificate of Correction fee as authorized April 29, 2009.

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.

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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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Howard Greenblatt | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613712 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/245,994 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **611** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APR 15 2009

Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| Sachar M. Paulus et al. | : | RESPONSE TO PETITION |
| Application No. 11/245,996 | : | TO EXPUNGE FILED |
| Filed: October 7, 2005 | : | UNDER 37 CFR 1.59(b) |
| For: ENTERPRISE INTEGRITY SIMULATION | : | |
| | : | |

This is a response to the petition under 37 CFR 1.59(b), filed August 29, 2008, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the document titled "ROSI, Return on Security Investment, Workshop Report", filed August 29, 2008, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

In the meantime, the file copy of the document will be retrieved and stored in a secure location whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

ak/SNM: 4/8/08

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

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AUG 1 8 2008

In re Application of :
TULLY, et al. :
Application No. 11/246,005 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 1314.2004-012 : FROM RECORD
:

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 10, 2008.

The request is NOT APPROVED.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request "the owner has discharged Heller Ehrman LLP and requests a transfer...", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: DON J. PELTO
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1300 I STREET NW, 11TH FLOOR EAST
WASHINGTON, DC 20005

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APR 22 2008

**OFFICE OF PETITIONS**

**MCDERMOTT, WILL & EMERY**
**4370 LA JOLLA VILLAGE DRIVE, SUITE 700**
**SAN DIEGO, CA 92122**

| | | |
|---|---|---|
| In re Application of | : | |
| David P. DUMAS | : | |
| Application No. 11/246,006 | : | DECISION ON PETITION |
| Filed: October 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 066788-0039 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 13, 2008.

The request is **APPROVED**.

A review of the file record indicates that Deborah P. Cadena does not have power of attorney in this patent application. In view of the present decision, Deborah P. Cadena has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID P. DUMAS
7572 MONA LANE
SAN DIEGO, CA 92130

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,006 | 10/06/2005 | David P. Dumas | 066788-0039 |

**CONFIRMATION NO. 2993**

**POWER OF ATTORNEY NOTICE**

41552
MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

*OC00000029489703*

Date Mailed: 04/21/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2008.

- 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 Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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APR 14 2006

**OFFICE OF PETITIONS**

In re Application of :
Hassanein, et al. : DECISION REFUSING STATUS
Application No.: 11/246,013 : UNDER 37 CFR 1.47(a)
Filed: October 7, 2005 :
Attorney Docket No.: TRME-P02-001 :
For: SYSTEMS AND METHODS FOR
EX-VIVO ORGAN CARE

This is a decision on the petition under 37 CFR 1.47(a), filed March 22, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 7, 2005 without an executed oath or declaration. Accordingly, on November 14, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, various fees, and a surcharge.

In response, on March 22, 2006, a three month extension of time and required fee, a declaration executed by of 16 of 17 joint inventors, a supplemental ADS, the surcharge, various fees, the petition fee, and the instant petition were filed. The petition is accompanied by a statement of facts of Attorney Jon C. Trachtenberg. Attorney Jon C. Trachtenberg states that he gave non-signing joint inventor Dmitri Menn a copy of the application and a declaration for the above-identified application and Mr. Menn expressly refused to sign the declaration for the patent application on a number of occasions.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint

inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200.00, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alterations to information for the 6th, 13th, 14th and 15th listed inventors. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Menn is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to signing inventors. Thus, pursuant to 37 CFR 1.67(a)(2), the 6th, 13th, 14th and 15th listed inventors can correct their respective information on a supplemental declaration identifying the entire inventive entity but signed only by them.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:**
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

**By hand:**
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

**By FAX:**
(571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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In re Application of :
Hassanein, et al. :
Application No.: 11/246,013 :
Filed: October 7, 2005 :
Attorney Docket No.: TRME-P02-001 :
For: SYSTEMS AND METHODS FOR EX-VIVO ORGAN CARE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 19, 2006 (certificate of mailing date October 16, 2006).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor , Dmitri Menn, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Jon C. Trachtenberg establishes that he gave Mr. Menn a copy of the application and a declaration for the above-identified application and Mr. Menn expressly refused to sign the declaration for the patent application on a number of occasions. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1632 for examination in due course.

Telephone inquiries related 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
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

DMITRI MENN
20 LEGGS HILL ROAD
MARBLEHEAD, MA 01945

In re Application of :
Hassanein, et al. : LETTER
Application No.: 11/246,013 :
Filed: October 7, 2005 :
Attorney Docket No.: TRME-P02-001 :
For: SYSTEMS AND METHODS FOR EX-VIVO ORGAN CARE

Dear Mr. Menn:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

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AUG 08 2006

**OFFICE OF PETITIONS**

In re Application of
Knittel
Application No. 11/246,034
Filed: October 7, 2005
Attorney Docket No. 100114-000110US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Trellis Intellectual Property Law Group, PC has been revoked by the applicant of the patent application on March 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272- 1642.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: John W. Carpenter
155 Sansome Street
Suite 400
San Francisco, CA 94104-3614

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P.O. BOX 10395
CHICAGO IL 60610

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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,542,113
Issued: June 2, 2009
Application No. 11/246,041
Filed: September 29, 2005
Attorney Docket No. 9281-5182

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on August 3, 2009, requesting that the patent term adjustment be corrected from 466 to 617 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 seventeen days is **GRANTED.**

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 466 days. The "B" delay period, the over three year period begins on September 29, 2008 and ends on June 2, 2009, considering the 95 days of overlap and is therefore 246 days. As such, the patent term adjustment is 617 days (466 plus 246 minus 95 days minus 0 days for applicant delay).

Per the authorization accompanying the petition and pursuant to 37 CFR 1.18(e), the Office has charged petitioner's deposit account no. 23-1925 in the amount of $200.00 for the instant petition. 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 seventeen (617)** 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 Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 17:24:03

| PTA Calculations for Application: 11/246041 | | | |
|---|---|---|---|
| Application Filing Date: | 09/29/2005 | PTO Delay (PTO): | 466 |
| Issue Date of Patent: | 06/02/2009 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 0 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 617 |
| PTO Delay Adjustment: | 151 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 72 | 03/26/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | 151 | | |
| 68.5 | 05/13/2009 | PTA 36 MONTHS | | | |
| 68 | 06/02/2009 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 67 | 04/27/2009 | EXPORT TO FINAL DATA CAPTURE | | | |
| 66 | 04/24/2009 | DISPATCH TO FDC | | | |
| 65 | 04/24/2009 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 64 | 04/23/2009 | ISSUE FEE PAYMENT VERIFIED | | | |
| 63 | 04/23/2009 | ISSUE FEE PAYMENT RECEIVED | | | |
| 62 | 02/25/2009 | FINISHED INITIAL DATA CAPTURE | | | |
| 61 | 01/23/2009 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 60 | 01/23/2009 | MAIL CORRECTED NOTICE OF ALLOWANCE | | | |
| 59 | 01/06/2009 | CORRECTED NOTICE OF ALLOWANCE | | | |
| 58 | 01/06/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 57 | 01/07/2009 | MAIL NOTICE OF ALLOWANCE | 95 | | 46 |
| 56 | 01/07/2009 | MAIL EXAMINER'S AMENDMENT | | | |
| 55 | 01/06/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 54 | 01/06/2009 | ISSUE REVISION COMPLETED | | | |
| 53 | 01/06/2009 | DOCUMENT VERIFICATION | | | |
| 52 | 01/06/2009 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 51 | 01/05/2009 | NOTICE OF ALLOWABILITY | | | |
| 47 | 07/22/2008 | DATE FORWARDED TO EXAMINER | | | |
| 46 | 06/04/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 45 | 03/04/2008 | MAIL NON-FINAL REJECTION | | | |
| 44 | 02/25/2008 | NON-FINAL REJECTION | | | |

| | | | | | |
|---|---|---|---|---|---|
| 39 | 09/29/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 38 | 05/05/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 37 | 11/17/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 36 | 02/11/2008 | DATE FORWARDED TO EXAMINER | | | |
| 35 | 01/10/2008 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 34 | 01/10/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 33 | 12/05/2007 | MAIL RESTRICTION REQUIREMENT | 371 | | -1 |
| 32 | 12/04/2007 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 31 | 10/03/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 30 | 04/04/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 29 | 12/21/2006 | REQUEST FOR CLASSIFICATION DIVISION DECISION | | | |
| 28 | 11/17/2006 | REFERENCE CAPTURE ON IDS | | | |
| 27.7 | 11/17/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 27 | 11/17/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 26 | 11/06/2006 | TRANSFER INQUIRY TO GAU | | | |
| 25 | 10/17/2006 | TRANSFER INQUIRY TO GAU | | | |
| 24 | 07/22/2006 | TRANSFER INQUIRY TO GAU | | | |
| 23 | 07/22/2006 | TRANSFER INQUIRY TO GAU | | | |
| 22 | 06/11/2006 | TRANSFER INQUIRY TO GAU | | | |
| 21 | 05/05/2006 | REFERENCE CAPTURE ON IDS | | | |
| 20.7 | 05/05/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 20 | 05/05/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 19 | 05/10/2006 | TRANSFER INQUIRY TO GAU | | | |
| 18 | 05/04/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 17 | 11/03/2005 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 16 | 09/29/2005 | PRELIMINARY AMENDMENT | | | |
| 15 | 09/29/2005 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 14.7 | 09/29/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 14 | 09/29/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 13 | 03/28/2006 | TRANSFER INQUIRY TO GAU | | | |
| 12 | 01/23/2006 | TRANSFER INQUIRY TO GAU | | | |
| 11 | 01/05/2006 | APPLICATION DISPATCHED FROM OIPE | | | |
| 10 | 01/05/2006 | APPLICATION IS NOW COMPLETE | | | |
| 9 | 12/27/2005 | ADDITIONAL APPLICATION FILING FEES | | | |
| 8 | 12/27/2005 | APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS | | | |
| 7 | 11/17/2005 | CORRECTED PAPER | | | |
| 4 | 11/08/2005 | CLEARED BY L&R (LARS) | | | |
| 3 | 10/24/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 2 | 10/20/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 09/29/2005 | 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

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,542,113 B2

DATED : June 2, 2009

INVENTOR(S) : Yoshii 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 (466) days

Delete the phrase "by 466 days" and insert – by 617 days--

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

**COPY MAILED**

NOV 29 2007

**OFFICE OF PETITIONS**

In re Application of :
Chi-Wen Lin :
Application No. 11/246,080 : ON PETITION
Deposited: October 11, 2005 :
Attorney Docket No.: MR1957-1149 :

This is a decision on the petition filed August 14, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment or in the alternative under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on March 13, 2006, for failure to timely file a response to a Notice regarding the filing fees mailed January 12, 2006. A two (2) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on June 18, 2007.

Petitioner argues that while there was an issue with the check submitted with the response to the January 12, 2006 Notice, an authorization was also included with the application on filing to charge their deposit account for any additional fees or underpayments under 37 CFR 1.16 and 1.17.

A review of the file reveals as is argued by petitioner, that the Fee Transmittal did in fact authorize that deposit account no. 18-2011 be charged in the event of additional fees or underpayments and as such, the Notice mailed January 12, 2006 and the Notice of Abandonment were mailed in error.

Petitioner's deposit account has been charged in the amount of $500 for the filing fees as well as a $50 fee for the returned check.

Accordingly, the Notice of Abandonment mailed on June 18, 2007, is hereby withdrawn.

In view thereof, there is no need to treat the petition alternatively filed under 37 CFR 1.137(b).

This matter will be referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FROM DIRECTOR'S OFFICE

OCT 24 2006

TECHNOLOGY CENTER 3600

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

In re application of
Mark Greenstein
Application No. 11/246,096
Filed: October 11, 2005
For: METHOD OF PURCHASING A PRODUCT TO AVOID ADVERSE SELECTION

**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B), (C), (D) and (E) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required. Regarding item (C), although the search terms "adverse selection" and "insurance" were noted, this is insufficient. The actual field of search is needed. The actual field of search, if electronic, needs to include: what database(s) were searched, what specific search logic was used and what were the results of the search. Regarding item (D), one copy of each of the references deemed **most closely related** to the subject matter must be submitted. Since there are always references "most closely related" to the subject matter of the claimed invention, even if not particularly relevant, those references must be provided. Having said that, it is highly dubious to believe that a proper search was conducted that results in no relevant references. When no relevant references are found, it is likely that the search needs to take a different direction.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
571-272-6611

SNM/dew: 10/18/06

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kut Hing Lam | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639954 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,116 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **862** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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** | : Min Hur | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7629747 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,119 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **898** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Jung-Kook Park | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626564 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,122 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **972** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JUN 07 2007

**OFFICE OF PETITIONS**

In re Application of :
SOECHTING et al. :
Application No. 11/246,137 :
Filed: 10/11/2005 :
Attorney Docket No. 278637US3 DIV :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on February 8, 2007, to withdraw the holding of abandonment.

On March 10, 2006, the Office mailed a Requirement for Statement Under § 305(c) of the Aeronautics & Space Act, which set a thirty-day non-extendable period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on April 11, 2006.

Petitioner asserts that a proper reply was filed timely. In support of the assertion, petitioner submits a copy of a return date-stamped postcard, acknowledging receipt of "Dep. Acct. Order Form; Cover Letter; Filing of Statement Under 42 USC 2457 (NASA); and Statement under 42 USC 2457 (NASA)" in the USPTO on Monday, April 10, 2006. A copy of the previously submitted reply accompanies the petition.

The Office has not located the original reply. Nevertheless, "[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." MPEP 503. Accordingly, it is concluded that the reply was filed timely in the USPTO on Monday, April 10, 2006, but was not matched with the application.

For the reasons stated above, the petition is **granted.** The holding of abandonment is hereby withdrawn and the application restored to pending status. The Office will accept the copy of the reply submitted with the petition on February 8, 2007, in place of the reply transmitted on Monday, April 10, 2006.

This matter is being referred to Technology Center Art Unit 2856 for appropriate action on the reply received with petition.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/246,137 | 10/11/2005 | Friedrich Soechting | 278637US3 DIV | 5612 |

22850 7590 11/24/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| RAEVIS, ROBERT R | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2856 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/24/2008 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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COMMISSIONER FOR PATENTS
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*In re* Application of SOECHTING ET AL.
Appl. No.: 11/246,137
Filed: October 11, 2005
For: TURBINE BLADE FATIGUE LIFE EVALUATION METHOD

**WITHDRAWAL FROM ISSUE**
*37 CFR 1.313*

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

John Cabeca
Director
Patent Examining Technology Center 2800

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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ALEXANDRIA, VA 22320-4850

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**OFFICE OF PETITIONS**

In re Application of
**MATSUZAKI**, et al.
Application No. 11/246,151
Filed: October 11, 2005
Attorney Docket No. **125592**

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 February 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 January 31, 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 Monica A. Graves at (571) 272-7253.

This application 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.

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.*

BEST AVAILABLE COPY

DEC 16 2005
PATENT & TRADEMARK OFFICE

HBH0001 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Deanna M. PETERS Group Art Unit: To Be Assigned 1761

Serial No.: 11/246,159 Examiner: To Be Assigned

Filed: October 11, 2005

For: HAM PRODUCT AND METHOD FOR PRODUCTION THEREOF

**PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102**

U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
Alexandria, VA 22314

Sir:

Applicant through the undersigned representative petition to make this application special in accordance with the procedures set forth under 37 C.F.R. § 1.102.

1. **Accompanying material**

Accompanying this petition are the following documents:

(1) A declaration from the Applicant's undersigned representative providing: (a) a statement that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc.; (b) a statement that all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, Applicant through the undersigned representative will make an election without traverse as a prerequisite to the grant of special status; and (c) a detailed discussion of the references, which discussion points out, with the

1/16/2005 HALI11 00000156 11246159
. FC:1464 130.00 OP

JAN 18 2006



PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

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. |
|---|---|---|---|---|
| 11/246,173 | 10/11/2005 | Steve Tengler | NT-US055075 | 5706 |

22919 7590 03/13/2008
GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

| EXAMINER | |
|---|---|
| NGUYEN, CHUONG P | |
| **ART UNIT** | **PAPER NUMBER** |
| 3663 | |
| **MAIL DATE** | **DELIVERY MODE** |
| 03/13/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

MAR 12 2008

TECHNOLOGY CENTER 3600

GLOBAL IP COUNSELORS, LLP
1233 2OTH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

In re Application of
Steve Tengler et al
Application No. 11/246,173
Filed: October 11, 2005
For: VEHICLE PRE-COLLISION COUNTERMEASURE SYSTEM

DECISION ON THE PETITION REGARDING REQUEST TO WITHDRAW FINALITY

Applicant's petition under 37 CFR 1.181, filed November 11, 2007, requests withdrawal of the finality of the Final office action mailed September 17, 2007.

The petition is **GRANTED**.

A thorough review of the file reveals applicant, in response to the non-Final office action dated January 12, 2007, did amend independent claim 1. Applicant incorporated dependent claim 5 into dependent claim 1. Claim 5 in the Non-final office action was rejected under Lemelson et al (5,983,161) in view of Liu et (20050088318).

The Final office action dated September 17, 2007 rejected amended claim 1 under Lemelson et al (5,983,161) in view of Ellis (20040145496).

Because the amendments to independent claim 1 did not cause a change in scope from the scope of claim 5, the amendment of July 2, 2007 did not necessitate a new search or the resulting new grounds of rejection as suggested by the examiner.

As a result, the Finality of the above-noted office action is hereby withdrawn. The Office action itself, however, is not withdrawn, and the Office action is now considered a non-final action. Because of the withdrawal of finality, the amendment filed December 17, 2007 is entered as a matter of right, and the Advisory Action of December 21, 2007 is hereby **VACATED**. The application is being forwarded to the examiner for a new action on the merits consistent with the above facts.

The petition for withdrawal of the finality is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at (571) 272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/snm: 3/11/08

SM

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/246,173 | 10/11/2005 | Steve Tengler | NT-US055075 | 5706 |

22919 7590 08/27/2008
GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

| EXAMINER | |
|---|---|
| NGUYEN, CHUONG P | |
| **ART UNIT** | **PAPER NUMBER** |
| 3663 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/27/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

AUG 26 2008

TECHNOLOGY CENTER 3600

GLOBAL IP COUNSELORS, LLP
1233 2OTH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

In re Application of
Steve Tengler et al.
Application No. 11/246,173
Filed: October 11, 2005
For: VEHICLE PRE-COLLISION COUNTERMEASURE SYSTEM

DECISION ON THE PETITION REGARDING REQUEST TO WITHDRAW FINALITY

Applicant's petition under 37 CFR 1.181, filed August 8, 2008, requesting entry of the declaration and other evidence is response to the Advisory Action mailed July 25, 2008.

The petition is **GRANTED**.

A thorough review of the file reveals that a new grounds of rejection based on amended claims was raised by the examiner in Final action dated April 18, 2008.

Applicant's after-Final submission of declarations and evidence was in response to the new grounds of rejection raised in the Final office action.

Because the applicant did not have the opportunity to respond to the newly raised rejection the declaration and evidence should have been entered.

The declarations/evidence have been entered. The Finality of the Office action of April 18, 2008 is withdrawn. A new non-Final Office action indicating entry of the declaration/evidence and status of the claims was mailed August 18, 2008.

The petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at (571) 272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/snm: 8/18/08

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**EITAN LAW GROUP**
**C/O LANDON IP INC.**
**SUITE 450**
**1700 DIAGONAL ROAD**
**ALEXANDRIA VA 22314**

COPY MAILED

NOV 14 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Eduardo Maayan et al | : | |
| Application No. 11/246,193 | : | DECISION ON PETITION |
| Filed: November 11, 2005 | : | |
| Attorney Docket No. P-4629-US2 | : | |

This is a decision on the petition, filed April 25, 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 **DISMISSED**.

This application was held abandoned for failure to timely respond to the Office action of April 5, 2006, which set a 3 (three) month shortened statutory period for reply. Accordingly, a reply was due on or before July 5, 2006.

Petitioner states that a response was timely filed, with a petition for extension of time, by fax (USPTO Central Fax) on August 8, 2006. Petitioner has submitted a copy of the previously submitted response.

The file record does not include the response stated to have been submitted by facsimile transmission on August 8, 2006. 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 fails to satisfy items (2) and (3) above.

As to item (2), the copy of the reply submitted on April 25, 2007, does not include a Certificate of Facsimile Transmission stating the date of transmission. Therefore, the reply stated to have been filed on August 7, 2006, does not comply with the provisions of 37 CFR 1.8(a)(1)(ii).

As to item (3), the evidence submitted does not show that the USPTO did in fact receive the response stated to have been submitted on August 7, 2006. Additionally, the application number is not identified on the copy of the facsimile transmission receipt. Further, the copy submitted is **not** the facsimile transmission receipt copy received from the USPTO. Rather, the copy is from j2 Global Communications indicating a successful transmission of five pages on August 7, 2006 to 15712738300.

Applicant is encouraged to provide a copy of the facsimile transmission receipt received from the USPTO for the response stated to have been transmitted on August 7, 2006.

In view of the above, the application remains in abandoned status.

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 $1,540 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 the undersigned at (571) 272-3208.

Karen Creasy
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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C/O LANDON IP INC.
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1700 DIAGONAL ROAD
ALEXANDRIA VA 22314

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AUG 13 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Eduardo Maayan et al | : | |
| Application No. 11/246,193 | : | DECISION GRANTING PETITION |
| Filed: October 11, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. P-4629-US2 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed , February 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed April 5, 2006, 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) 272-3208.

This application is being referred to Technology Center AU 2824 to consider the reply received February 11, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**VLADIMIR SHERMAN**
**116 JOHN ST., SUITE 1201**
**NEW YORK, NY 10038**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/246,254 | 10/11/2005 | Byung-Doo Chin | P57700 | 6964 |

7590 10/17/2008

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

| EXAMINER | |
|---|---|
| MAZUMDAR, SONYA | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/17/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Mailed : 10/17/08

| | | |
|---|---|---|
| In re Application of | : | DECISION ON |
| BYUNG-DOO CHIN et al. | : | PETITION |
| Serial No. 11/246,254 | : | |
| Filed: October 11, 2005 | : | |
| For: LASER INDUCED THERMAL IMAGING APPARATUS AND METHOD OF FABRICATING ORGANIC LIGHT EMITTING DISPLAY USING THE SAME | : | |

This is a decision on the PETITION UNDER 37 CFR 1.44 to withdraw the restriction requirement set forth by telephone on October 24, 2006 and finalized on March 28, 2008.

On October 24, 2006, a three way restriction requirement was made by the examiner. The examiner took the position the groups were related as apparatus, method and product. Applicants traversed the restriction requirement in a response filed October 27, 2006, added new claims 15-19 and amended some claims in an attempt to overcome the restriction requirement. The examiner treated the election as an election with traverse in an office action mailed March 28, 2008 and withdrew the non-elected claims 9-17 from consideration. Applicants continued to argue the restriction requirement in a response filed on June 30, 2008.

On July 3, 2008, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not established a serious burden in examining all groups and that he has not shown that the separate groups are independent or distinct.

**DECISION**

Petitioner states that the examiner has not alleged any serious burden in the Office telephone request under 37 CFR §1.142, and thus the examiner must examine the entire application. This is not persuasive. The examiner's requirement for restriction alleges serious burden, otherwise

as mentioned by petitioner, if search can be made without serious burden, the examiner must examine the application on the merits. Further, the written summary of the telephone restriction establishes that the groups are separately classified.

Petitioner states that the fields of search for groups I and II are coextensive and therefore the restriction requirement serves no purpose other than to impose an undue burden and unnecessary expense upon the Applicant. This is not persuasive. Although the search of some groups may overlap, they are not coextensive and an undue burden would exist in examining all groups.

Petitioner states that no information of classification was given to the applicants' application by the Examiner during the Examiner's search. Therefore the Examiner most likely did the research by keywords or scenario other than classification. Thus, the fields of search are coextensive with respect to the three groups of claims, and therefore the restriction requirement serves no purpose other than to impose an undue burden and unnecessary expense upon the applicant. This is not persuasive. Although the search of some groups may overlap, they are not coextensive and an undue burden would exist in examining all groups.

Petitioner states that MPEP §806.03 the restriction should be withdrawn because the claims are drawn to a single embodiment. This is not persuasive as the claims are not drawn to a single embodiment.

Petitioner states that Inventions I and II are not distinct from each other since claim 9 has been amended to specify a conductive material in a grounding means and the step of "to fix the substrate to the stage" defined in claim 9 is well known and thus this step is not necessary to define the means in applicants' claim 1. Therefore applicant argues that, neither 1) the process as defined in claim 9 can be practiced by another and materially different apparatus or by hand, nor 2) the apparatus as defined in claim 1 can be use to practice another and materially different process. This is not persuasive. It is noted that that the apparatus can be used to practice another and materially different process such as one in which an electrode is patterned onto the donor substrate and then transferred to the substrate upon lamination.

Petitioner states that inventions I and III are not distinct from each other because the improved OLED as defined in claim 14 can be achieved only by a fabrication method as defined in applicants' claim 9. This is not persuasive because the examiner held that the apparatus could be used to produce another and materially different product, not that the product could be produced by another and materially different apparatus. The examiner need not show both.

Petitioner asserts that during a telephone discussion with the SPE on July 2, 2008, the SPE reiterated that the different styles of the pending claims were the basis that mandated a finding that these claims were defined as independent and distinct inventions. Petitioner asserts that despite the fact that these claims were defined as different styles, the claims in-point-of fact are but different techniques for claiming the same invention. If the Petitioner is asserting that Groups I, II, and II are obvious over each other, the restriction will be withdrawn in view of such admission.

Accordingly, the petition for withdrawal of the restriction requirement is **DENIED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/246,254 | 10/11/2005 | Byung-Doo Chin | P57700 | 6964 |

8439 7590 01/26/2009

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

| EXAMINER | |
|---|---|
| MAZUMDAR, SONYA | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/26/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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Mailed : 1/26/09

| | | |
|---|---|---|
| In re Application of | : | DECISION ON |
| BYUNG-DOO CHIN et al. | : | PETITION |
| Serial No. 11/246,254 | : | |
| Filed: October 11, 2005 | : | |
| For: LASER INDUCED THERMAL IMAGING APPARATUS AND METHOD OF FABRICATING ORGANIC LIGHT EMITTING DISPLAY USING THE SAME | : | |

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.44 to withdraw the restriction requirement set forth by telephone on October 24, 2006 and finalized on March 28, 2008.

On October 24, 2006, a three way restriction requirement was made by the examiner. The examiner took the position the groups were related as apparatus, method and product. Applicants traversed the restriction requirement in a response filed October 27, 2006, added new claims 15-19 and amended some claims in an attempt to overcome the restriction requirement. The examiner treated the election as an election with traverse in an office action mailed March 28, 2008 and withdrew the non-elected claims 9-17 from consideration. Applicants continued to argue the restriction requirement in a response filed on June 30, 2008.

On July 3, 2008, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not established a serious burden in examining all groups and that he has not shown that the separate groups are independent or distinct.

**DECISION**

Petitioner states that the examiner has not alleged any serious burden in the Office telephone request under 37 CFR §1.142, and thus the examiner must examine the entire application. This is not persuasive. The examiner's requirement for restriction alleges serious burden, otherwise

as mentioned by petitioner, if search can be made without serious burden, the examiner must examine the application on the merits. Further, the written summary of the telephone restriction establishes that the groups are separately classified.

Petitioner states that the fields of search for groups I and II are coextensive and therefore the restriction requirement serves no purpose other than to impose an undue burden and unnecessary expense upon the Applicant. This is not persuasive. Although the search of some groups may overlap, they are not coextensive and an undue burden would exist in examining all groups.

Petitioner states that no information of classification was given to the applicants' application by the Examiner during the Examiner's search. Therefore the Examiner most likely did the research by keywords or scenario other than classification. Thus, the fields of search are coextensive with respect to the three groups of claims, and therefore the restriction requirement serves no purpose other than to impose an undue burden and unnecessary expense upon the applicant. This is not persuasive. Although the search of some groups may overlap, they are not coextensive and an undue burden would exist in examining all groups.

Petitioner states that MPEP §806.03 the restriction should be withdrawn because the claims are drawn to a single embodiment. This is not persuasive as the claims are not drawn to a single embodiment.

Petitioner states that Inventions I and II are not distinct from each other since claim 9 has been amended to specify a conductive material in a grounding means and the step of "to fix the substrate to the stage" defined in claim 9 is well known and thus this step is not necessary to define the means in applicants' claim 1. Therefore applicant argues that, neither 1) the process as defined in claim 9 can be practiced by another and materially different apparatus or by hand, nor 2) the apparatus as defined in claim 1 can be use to practice another and materially different process. This is not persuasive. It is noted that that the apparatus can be used to practice another and materially different process such as one in which an electrode is patterned onto the donor substrate and then transferred to the substrate upon lamination.

Petitioner states that inventions I and III are not distinct from each other because the improved OLED as defined in claim 14 can be achieved only by a fabrication method as defined in applicants' claim 9. This is not persuasive because the examiner held that the apparatus could be used to produce another and materially different product, not that the product could be produced by another and materially different apparatus. The examiner need not show both.

Petitioner asserts that during a telephone discussion with the SPE on July 2, 2008, the SPE reiterated that the different styles of the pending claims were the basis that mandated a finding that these claims were defined as independent and distinct inventions. Petitioner asserts that despite the fact that these claims were defined as different styles, the claims in-point-of fact are

but different techniques for claiming the same invention. If the Petitioner is asserting that Groups I, II, and II are obvious over each other, the restriction will be withdrawn in view of such admission.

Applicants have not asserted that the claims of Groups I, II, and III are obvious over each other.

Accordingly, the petition for withdrawal of the restriction requirement is **DISMISSED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

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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** | : Harri Halonen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7577439 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/18/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,260 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **417** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

**ROBERT E. BUSHNELL**
**SUITE 300**
**1522 K STREET, N.W.**
**WASHINGTON DC 20005**

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MAY 19 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Ki-Jung Kim et al | : | |
| Application No. 11/246,263 | : | DECISION GRANTING PETITION |
| Filed: October 11, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. P57630 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on April 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 the undersigned at (571) 272-3208.

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 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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United States Patent and Trademark Office
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

**COPY MAILED**

SEP 1 1 2006

**OFFICE OF PETITIONS**

In re Application of :
Liljeryd, et al. :
Application No. 11/246,283 : DECISION ON PETITION
Filed: October 11, 2005 : TO WITHDRAW
Attorney Docket No. 4441.0108PUS2 : FROM RECORD
:

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 24, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Terrell C. Birch on behalf of all attorneys of record who are associated with customer No. 02292.

All attorneys/agents associated with the Customer Number 02292 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 Lars Gustaf Liljeryd at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Lars Gustaf Liljeryd
Vintervagen 19 S171 34 Solna
Sweden

cc: MICHAEL A. GLENN
GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 1 1 2006

**OFFICE OF PETITIONS**

In re Application of :
Liljeryd, et al. :
Application No. 11/246,284 : DECISION ON PETITION
Filed: October 11, 2005 : TO WITHDRAW
Attorney Docket No. 4441.0108PUS2 : FROM RECORD
:

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 24, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Terrell C. Birch on behalf of all attorneys of record who are associated with customer No. 02292.

All attorneys/agents associated with the Customer Number 02292 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 Lars Gustaf Liljeryd at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Lars Gustaf Liljeryd
Vintervagen 19 S171 34 Solna
Sweden

cc: MICHAEL A. GLENN
GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

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MAY 18 2006

WENDEROTH LIND & PONACK
SUITE 800
2033 K STREET NW
WASHINGTON DC 20006

| | |
|---|---|
| In re Application of | : |
| Andreas Abel et al | : |
| Serial No.: 11/246,287 | : SUSPENSION OF ACTION |
| Filed: October 11, 2005 | : |
| Attorney Docket No.: 2005-1629 | : |

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed October 19, 2005.

A review of the file history shows that this is an unexamined application.

**§ 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(h), unless such cause is the fault of the Office.

Applicants' petition states that they are presently conducting experiments to support a contention of unexpected results and/or advantageous properties. No general description of the experiments being conducted is set forth nor any indication given when the experiments will be completed or results will be tabulated for presentation. Applicants refer to a parent application, however it is noted that a Final rejection was mailed in that application on April 7, 2005, and the application became abandoned six months thereafter. No explanation is given as to what experiments are being done or why the experiments could not have been completed by this time.

In view of the above reason the petition is **DISMISSED**. Applicants may submit a renewed petition, if desired, addressing the deficiencies noted above. Any renewed petition must be submitted within TWO MONTHS of the mail date of this decision in order to be considered timely.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Torsten Wipiejewski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7592615 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,306 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**JOEL D. SKINNER, JR.**
**SKINNER AND ASSOCIATES**
**212 COMMERCIAL ST.**
**HUDSON WI 54016**

**COPY MAILED**

MAY 0 2 2008

**OFFICE OF PETITIONS**

In re Application of :
Diggins, Mark :
Application No. 11/246,335 : DECISION ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. ARD133USA :

This is a decision on the petition under the unintentional provisions of 37 CFR 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 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 3673 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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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/246,338 | 10/07/2005 | 3731 | 1150 | 760-104 CPA/RCEIII/CON | 4 | 23 | 1 |

**CONFIRMATION NO. 4822**

23869
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

**CORRECTED FILING RECEIPT**

*OC000000018325615*

Date Mailed: 03/21/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Kathy Hess, Middleton, MA;
Barbara Kelley, Bedford, MA;

**Assignment For Published Patent Application**

SCIMED LIFE SYSTEMS, INC.

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/448,701 11/24/1999

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 10/28/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/246,338**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Thin-layered endovascular silk-covered stent device and method of manufacture thereof

**Preliminary Class**

623

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

---

## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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**HOFFMANN AND BARON LLP**
**6900 JERICHO TURNPIKE, SUITE 200**
**SYOSSET, NY 11791**

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AUG 25 2009

OFFICE OF PETITIONS

In re Application of :
**Kathy HESS, et al.** :
Application No. 11/246,338 :
Filed: October 7, 2005 :
Attorney Docket No. **760-104 CPA/RCEIII/CON** :

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 26, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **HOFFMANN AND BARON LLP** has been revoked by the assignee of the patent application on June 15, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **VIDAS ARRETT & STEINKRAUS, PA**
**6640 SHADY OAK ROAD, SUITE 400**
**EDEN PRAIRIE, MN 55344**

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APR 07 2008

OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

In re Application of
Yechezkel Barenholz, et al.
Application No. 11/246,340
Filed: October 7, 2005
Attorney Docket No. 55325-8192.US00

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 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Judy Mohr on behalf of all attorneys of record who are associated with customer No. 22918.

All attorneys/agents associated with the Customer Number 22918 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: YISSUM RESEARCH DEVELOPMENT COMPANY
OF THE HEBREW UNIVERISTY OF JERUSALEM
HI-TECH PARK
EMOND J. SAFRA COMPUS
GIVAT-RAM, JERUSALEM 91390
ISRAEL

cc: ROBINS & PASTERNAK, LLP
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,340 | 10/07/2005 | Yechezkel Barenholz | 55325-8192.US00 |

**CONFIRMATION NO. 4808**

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

**POWER OF ATTORNEY NOTICE**

*OC00000002927228*

Date Mailed: 04/07/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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**EDWARDS ANGELL PALMER & DODGE LLP**
**P.O. BOX 55874**
**BOSTON, MA 02205**

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JAN 17 2008

**OFFICE OF PETITIONS**

In re Application of
John W. LERCH, et al
Application No. 11/246,358
Filed: October 7, 2005
Attorney Docket No. 64158 (51225)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 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 Howard M. Gitten on behalf of all attorneys/agents of record associated with Customer Number 21874.

All attorneys/agents of record associated with Customer Number 21874 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first 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 outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN W. LERCH
1505 S. MIRAMAR AVENUE
INDIALANTIC, FL 32903

cc: PROXIMITIES, INC.
ATTN: THOMAS J. PEFF AND
RONALD R. CARNEY
925 CHATSWORTH
MELBOURNE, FL 32940

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,358 | 10/07/2005 | John W. Lerch | 64158(51225) |

**CONFIRMATION NO. 5113**

**POWER OF ATTORNEY NOTICE**

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Date Mailed: 01/16/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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DEC 0 1 2006

OFFICE OF PETITIONS

Kokka & Hsu, PC
1001 N. Rengstorff Ave.
Suite 250
Mountain View, CA 94043-1748

In re Application of :

Hui-Min Chen :
Application No. 11/246,362 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. EPI-002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 8, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott S. Kokka on behalf of all attorneys of record who are associated with Customer No. 53830.

All attorneys/agents associated with the Customer No. 53830 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: **Hui-Min Chen**
15681 Anchorage Drive
San Leandro, CA 94579

cc: **Blank Rome LLP**
One Logan Square
130 North 18th Street
Philadelphia, PA 19103-6998

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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 |
|---|---|---|---|
| 11/246,362 | 10/07/2005 | Hui-Min Chen | EPI-002 |

**CONFIRMATION NO. 5122**

*OC000000021422761*

*OC000000021422761*

53830
KOKKA & HSU, PC
1001 N. RENGSTORFF AVE.
SUITE 250
MOUNTAIN VIEW, CA 94043-1748

Date Mailed: 11/30/2006

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/08/2006.

- 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.

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Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909

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JAN 0 8 2009

In re Application of :
Jeffrey M. Getchius :
Application No. 11/246,368 : ON PETITION
Filed: October 11, 2005 :
Attorney Docket No.: 01-1005 CON1 :

This is a decision on the petition, filed January 6, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on December 2, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2169 for processing of the request for continued examination under 37 CFR 1.114.

/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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PATENT MANAGEMENT GROUP
1320 North Court House Road
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ARLINGTON VA 22201-2909

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JAN 09 2009

In re Application of :
Jeffrey M. Getchius :
Application No. 11/246,368 : ON PETITION
Filed: October 11, 2005 :
Attorney Docket No.: 01-1005 CON1 :

This is a decision on the petition, filed January 6, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on December 2, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2169 for processing of the request for continued examination under 37 CFR 1.114.

/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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PATENT MANAGEMENT GROUP
1320 NORTH COURT HOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2909

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APR 23 2009

OFFICE OF PETITIONS

In re Application of :
Jeffrey M. Getchius :
Application No.: 11/246,368 : ON PETITION
Filed: October 11, 2005 :
Attorney Docket No.: 01-1005 CON1 :

This is a decision on the petition, filed April 22, 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 21, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2169 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment of the application.*

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JUN 30 2006

Ezra Sutton, Esq.
Plaza 9 Building
900 Route 9
Woodbridge, NJ 07095

| | |
|---|---|
| In re Application of:<br>TIMOTHY MANNION<br>Serial No.: 11/246,376<br>Filed: 7 October 2005<br>Docket: Mannion 3.0-001<br>Title: METHOD OF UTILIZING A UNIVERSAL CASINO CASH CARD | DECISION ON REQUEST FOR PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02(VIII) |

This is a decision on the petition filed on May 19th, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petitioner provides: A) the applicable fee; B) a statement that examination is for a single invention and that applicant will make an election without traverse if the examiner properly determines the claims are not directed towards a single invention; C) a statement that a search has been made on the US PTO database in Class 463, Subclasses 25, and 28; and Class 705, Subclasses 35, 42, 64, 65; D) a PTO-1449 IDS listing references considered pertinent; and E) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: A) the applicable petition fee; B) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; C) a statement that a pre-examination search was made, listing the field of search by class and subclass; D) a copy of each of the references deemed most closely related to the claimed subject matter; and E) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

All the requirements of MPEP § 708.02(VIII)(A), (B), (C), (D), and (E) are considered to have been met.

For the above-mentioned reasons, the petition is granted. The application will therefore be taken up by the examiner for action in its accelerated turn.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young, Director
Technology Center 3700

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ROCHE DIAGNOSTICS CORPORATION
9115 HAGUE ROAD
PO BOX 50457
INDIANAPOLIS IN 46250-0457

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Joachim Kasielke et al. :
Application No. 11/246,381 : ON PETITION
Filed: October 7, 2005 :
Attorney's Docket No. WP21760US :

This is a decision on the petition filed January 13, 2006 for a Corrected Filing Receipt which is treated under 37 CFR 1.10.

The petition is **DISMISSED** as involving moot issues.

Petitioners request that the filing date be corrected to October 7, 2005, as the date that the application was deposited in Express Mail service instead of October 11, 2005.

A review of Office PALM records indicates that the application is presently accorded a filing date of October 7, 2005. The petition is therefore dismissed as moot. A copy of a corrected filing receipt accompanies this decision.

In view of the above, no fees are due and none have been charged.

This matter is being referred to Technology Center 1753 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Official Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROCHE DIAGNOSTICS OPERATIONS INC.
9115 Hague Road
Indianapolis, IN 46250-0457

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Joachim Kasielke | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638033 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,381 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : 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.

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300 ESPLANADE DRIVE
SUITE 800
OXNARD CA 93036

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APR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Henrique S. Malvar :
Application No. 11/246,411 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. MCS-055A-04-CON :

This is a decision on the petition, filed April 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on March 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2819 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KIMBERLY-CLARK WORLDWIDE, INC.
Catherine E. Wolf
401 NORTH LAKE STREET
NEENAH WI 54956

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OFFICE OF PETITIONS

In re Application of :
Olson :
Application No. 11/246,414 :
Filed: October 7, 2005 :
Attorney Docket No. 21,699A :
For: ABSORBENT ARTICLE FEATURING A :
TEMPERATURE CHANGE MEMBER :

ON PETITION

This is a decision on the correspondence, filed October 3, 2008, alleging a proper reply to the January 11, 2008 non-final Office action was timely submitted to the Office on April 11, 2008.. The correspondence will be treated under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The constructive petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The petition is dismissed and the merits of the petition will not be addressed because the correspondence is not signed by a proper party.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Judith M. Anderson. Judith M. Anderson has not provided an attorney/agent registration number. Judith M. Anderson has not shown that she is an authorized representative of an assignee who has right to take action.

In short, Judith M. Anderson has not established that she is permitted to file amendments and other papers in this application.

In any reconsideration petition, petitioner is encouraged to either (a) submit Judith M. Anderson's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee establishing ownership of the invention, signed by a person authorized to act on behalf of the assignee (the person authorized to act on behalf of the assignee should be Judith M. Anderson and in this manner, the signature on instant petition will be ratified); or (c) submit a petition signed by the sole inventor.

Probably the easiest solution is to file the petition signed by a registered attorney.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:**
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

**By hand:**
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

**By FAX:** (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Catherine E. Wolf
401 NORTH LAKE STREET
NEENAH WI 54956

MAILED

AUG 13 2009

OFFICE OF PETITIONS

In re Application of :
Olson :
Application No. 11/246,414 :
Filed: October 7, 2005 : ON PETITION
Attorney Docket No. 21,699A :
For: ABSORBENT ARTICLE FEATURING A :
TEMPERATURE CHANGE MEMBER :

This is a decision on the petition under 37 CFR 1.181, filed March 27, 2009, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to timely respond in a timely manner to the non-final Office action, mailed January 11, 2008, which set a three (3) month period for reply. A Notice of Abandonment was mailed on July 18, 2008.

Petitioner asserts that a proper response was in fact timely received in the Office on April 11, 2008. In support, petitioner submitted a copy of the amendment that was filed with an itemized certificate of facsimile transmission.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized certificate of transmission is dated April 11, 2008 and is in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, petitioner has submitted an auto-reply facsimile transmission from the Office, showing that the Office received an 11 page document from the fax sender at 920 721-0225 on April 11, 2008. The first page of the

transmission, as shown on the auto-reply is the certificate of transmission signed by Judith M. Anderson.

It is apparent the April 11, 2008 facsimile transmission was received in the Office and later misplaced.

Therefore, the response to the January 11, 2008 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 3761 for consideration of the amendment filed on certificate of mailing date April 11, 2008 and resubmitted on October 3, 2008 and March 27, 2009.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 902
EL SEGUNDO, CA 90245-0902

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Thomas K. Dougherty et al :
Application No. 11/246,418 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 04W244 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 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 June 27, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 28, 2008.

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 Technology Center AU 2814 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Glenn H. Lenzen
Polsinelli Shughart P.C.
1050 17th Street, Suite 1600
Denver, CO 80265

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**WOODCOCK WASHBURN LLP**
**ONE LIBERTY PLACE, 46TH FLOOR**
**1650 MARKET STREET**
**PHILADELPHIA PA 19103**

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**OFFICE OF PETITIONS**

In re Application of :
Galkin, Benjamin M. :
Application No. 11/246,419 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. GALK-0008 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 7, 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 the applicant, Benjamin M. Galkin. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 2882 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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AUG 13 2008

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| William F. Gulley | : | |
| Application No. 11/246,433 | : | ON PETITION |
| Filed: October 7, 2005 | : | |
| Docket No. PGullW4B-Clamp | : | |

This is in response to the paper filed July 18, 2008, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 in lieu of petitioner's request that an Office action be re-mailed and the period for reply restarted.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above application became abandoned for failure to pay the file a proper reply to the non-final Office action (an Election/Restriction Requirement) mailed June 15, 2007. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on July 16, 2007. The Office mailed a Notice of Abandonment on January 17, 2008.

A petition to withdraw the holding of abandonment under 37 CFR 1.181 is only appropriate in those situations where petitioner is contending that the application is even abandoned to begin with (e.g. if

petitioner contends that he did timely pay the issue fee, or never received an Office action).

If petitioner admits that the application is in fact abandoned, but petitioner's contention involves the **cause** of the abandonment, then the appropriate remedy is a petition to revive pursuant to 37 CFR 1.137(a) or 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l), currently $255 for a small entity; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $770 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: PTO/SB/64 - 37 CFR 137(b) petition form (2 pages)
PTO/SB/61 - 37 CFR 137(a) petition form (3 pages)
Privacy Act Statement (1 page)
copy of June 15, 2007 Office action (6 pages)

PTO/SB/64 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| **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.*

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

PTO/SB/61 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| **PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)** | Docket Number (Optional) |
|---|---|

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.**

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.



This collection of information is required by 37 CFR 1.137(a). 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 8 hours 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.*

## PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**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

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

**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

PTO/SB/61 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

| | |
|---|---|
| Signature | Date |
| Typed or printed name | Registration Number, if applicable |

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

*(Please attach additional sheets if additional space is needed.)*

# 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

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. |
|---|---|---|---|---|
| 11/246,433 | 10/07/2005 | William F. Gulley | PGullW4B-Clamp | 5368 |

29935 7590 06/15/2007

C. EMMETT PUGH
82 N. MAIN ST.
SUFFIELD, CT 06078-2102

| EXAMINER | |
|---|---|
| MCDUFFIE, MICHAEL D | |
| **ART UNIT** | **PAPER NUMBER** |
| 3632 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/15/2007 | 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.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/246,433 | GULLEY, WILLIAM F. | |
| | Examiner | Art Unit | |
| | Michael McDuffie | 3632 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9 and 13-26, drawn to a heavy load clamp system, classified in class 248, subclass 228.1.

II. Claims 10-12 and 27-29, drawn to a method of lifting a heavy work piece, classified in class 182, subclass 3.

The inventions are distinct, each from the other because of the following reasons:

Inventions I. and II. are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method disclosed is capable of being utilized in mounting a safety stanchion (see U.S. Patent No.: 6173809 to Cole et al.).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species:

I. Figs. 1-8

II. Figs. 9-16

The species are independent or distinct because they disclose multiple embodiments of the applicant's clamping system.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael McDuffie whose telephone number is 571-272-3832. The examiner can normally be reached on Mon.-Fri., 7AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mcm

Michael McDuffie
8-Jun-07

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

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

**PRICE HENEVELD COOPER DEWITT & LITTON, LLP**
**695 KENMOOR, S.E.**
**P O BOX 2567**
**GRAND RAPIDS MI 49501**

COPY MAILED

AUG 30 2007

OFFICE OF PETITIONS

In re Application of :
**WOTRING,** Randall C. :
Application No. 11/246,446 : DECISION ON PETITION
Filed: October 07, 2005 : TO WITHDRAW
Attorney Docket No. **WOT01 P-302** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 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 Steven Underwood on behalf of all attorneys of record who are associated. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Randall Wotring at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RANDALL C. WOTRING**
**P. O. BOX 507**
**BIG RAPIDS, MI 49307**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : William Robert Hawks JR. | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607448 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,457 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of
Bruce, Warrener, and Hou
Application No.: 11/246,458
Filed: October 11, 2005
Attorney Docket No: **002441.00178/PP16917**
For: **ESSENTIAL AND IMPORTANT GENES OF PSEUDOMONAS AERUGINOSA AND THE USE THEREOF TO DESIGN OR IDENTIFY ANTIBATERIAL AGENTS**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed March 15, 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 October 11, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing parts of Nonprovisional Application" (the "Notice") was mailed on October 20, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, among other items. A petition under 37 CFR 1.47(a) was filed on March 15, 2006, with a request for an extension of time within the third month.

Petitioner has shown that inventor Hou has constructively refused or cannot be located to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The fee for the instant petition is $200.00. Deposit account 19-0733 will be charged an additional $70.00 accordingly.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 23 2007

OFFICE OF PETITIONS

**CLARK & ELBING LLP**
**101 FEDERAL STREET**
**BOSTON MA 02110**

In re Application of :
**KEARNEY,** Paul et al. :
Application No. 11/246,463 : DECISION ON PETITION
Filed: October 06, 2005 : TO WITHDRAW
Attorney Docket No. **50111/081003** : FROM RECORD
:

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 09, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Clark & Elbing LLP has been revoked by the assignee of the patent application on February 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: **TORYS LLP**
**79 WELLINGTON ST. WEST**
**SUITE 3000**
**TORONTO, CANADA M5K 1-N2**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,463 | 10/06/2005 | Paul Edward Kearney | 50111/081003 |

**CONFIRMATION NO. 5534**

*OC000000023934449*

33721
TORYS LLP
79 WELLINGTON ST. WEST
SUITE 3000
TORONTO, ON M5K 1N2
CANADA

Date Mailed: 05/17/2007

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,463 | 10/06/2005 | Paul Edward Kearney | 50111/081003 |

**CONFIRMATION NO. 5534**

*OC000000023934404*

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Date Mailed: 05/17/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

---

Michelle L. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

TRIANGLE PATENTS, P.L.L.C.
P.O. BOX 28539
RALEIGH, NC 27611-8539

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MAR 17 2008

In re Application of :
Shawn-Kristin Reynolds :
Application No. 11/246,501 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 4035-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 26, 2007

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Triangle Patents, PLLC has been revoked by the applicant of the patent application on November 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROCKEY, DEPKE & LYONS, LLC
SEARS TOWER
233 S. WACKER DRIVE
SUITE 5450
CHICAGO, IL 60606-6306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Stephen M. Evans
Graybeal Jackson Haley LLP
Suite 350
155 - 108th Avenue NE
Bellevue, WA 98004-5973

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of Brodersen et al. :
Application No. 11/246,513 : Decision on Petition
Filing Date: October 7, 2005 :
Attorney Docket No. 2250-002-03 :

This is a decision on the petition filed June 28, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

On May 3, 2006, the Office mailed a non-final Office action including a requirement for restriction/election.

The Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Absent payment for an extension of time, a reply to the Office action could have been timely filed as late as Monday, June 5, 2006.

A reply was not filed until July 5, 2006. The reply includes a certificate of mailing date of June 28, 2006.

The reply filed July 5, 2006, would have been timely *if* the reply had included a request for a one-month extension of time. However, the papers filed July 5, 2006, did not include a request for an extension of time or a general authorization to charge any necessary fees to a deposit account.

A Notice of Abandonment was mailed January 11, 2007. The Notice of Abandonment is incorrect in so far as the Notice states a reply was never filed in response to the May 3, 2006 Office action. The Notice should have acknowledged an untimely reply had been filed.

For the reasons above, the application is abandoned and the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a blank petition under 37 CFR 1.137(b) form is enclosed. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration under 37 CFR 1.181 must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64
Privacy Act Notice

PTO/SB/64 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
**Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.



This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Stephen M. Evans
Graybeal Jackson Haley LLP
Suite 350
155 - 108th Avenue NE
Bellevue, WA 98004-5973

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of Brodersen et al. :
Application No. 11/246,513 : Decision on Petition
Filing Date: October 7, 2005 :
Attorney Docket No. 2250-002-03 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **granted**.

On May 3, 2006, the Office mailed a non-final Office action including a requirement for restriction/election.

The Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Absent payment for an extension of time, a reply to the Office action could have been timely filed as late as Monday, June 5, 2006.

A reply was not filed until July 5, 2006. The reply includes a certificate of mailing date of June 28, 2006.

The reply filed July 5, 2006, would have been timely *if* the reply had included a request for a one-month extension of time. However, the papers filed July 5, 2006, did not include a request for an extension of time or a general authorization to charge any necessary fees to a deposit account.

A Notice of Abandonment was mailed January 11, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $770. Petitioner has submitted a reply to the May 3, 2006, in the form of the communication filed July 5, 2006. 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 2839 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

· UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 2 0 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Einar Stole
MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON DC 20006

| | |
|---|---|
| In re Application of | : |
| Khan et a | :Decision on Petition |
| Serial No.: 11/246,524 | : |
| Filed : 11 October 2005 | : |
| Attorney Docket No.:17357.02300US | : |

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181(a)(2) filed on 26 March 2008 requesting reconsideration of the restriction requirement dated 26 March 2008. The delay in acting upon this petition is regretted.

**BACKGROUND**

This application was filed as a national application under 35 USC 111(a). As such, this application is entitled to US restriction practice.

On 2 August 2007, the examiner required a restriction dividing the original 62 claims directed to various processes and products into 6 groups.

On 4 September 2007, applicants elected Group I, with traverse, stating the Group I and Group III overlap in scope as claimed. Applicant specifically pointed to overlap between Claims 16 of Group I and Claim 40 of Group III.

On 26 November 2007, the examiner considered the traversal and made the restriction requirement FINAL. Claims 34-62 were withdrawn from consideration as being directed to the non-elected inventions. Claims 1-33 were rejected under 35 USC 112, first paragraph for inadequate written description. Claims 1-3, 5-10 and 12-14 rejected under 35 U.S.C. 102(b) and 102(e) in view of Zhao. Claims 1-3, 5-14 were rejected under 35 USC 103(a) as being unpatentable over Zhao in view of Der. Claims 1-3, 5-10 and 12-14 were rejected under 35 USC 103(a) as being unpatentable over Zhao in view of Shen. Claims 1-3, 5-10 and 12-14 were provisionally rejected on the ground of obviousness type double patenting.

On 26 March 2008, applicants filed a response to the Office action and this petition.

**DISCUSSION**

The file history and petition have been considered carefully.

The petition requests rejoinder of Groups I and III.

Upon reconsideration, given the facts of this particular application, it would not present a serious burden to concurrently examine the process of Group I, claims 1-2, 5-19 and 21-33 and the process of Group III, claims 40-56. Claims 34-39, drawn to a kit of Group II, remain withdrawn from examination.

**DECISION**

For these reasons, the petition filed under 37 CFR 1.144 and 1.181(a)(2) on 26 March 2008 is **GRANTED**.

The restriction requirement made between Group I and III has been withdrawn.

The application will be forwarded to the examiner for consideration of the papers filed on 26 March 2008 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

John LeGuyader
Director, Technology Center 1600

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Paper No.

MILBANK, TWEED, HADLEY &
MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W.
SUITE 1100
WASHINGTON DC 20006

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AUG 26 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Khan et al. | : | DECISION ON APPLICATION |
| Application No. 11/246,524 | : | FOR |
| Filed: October 11, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 17357.02300US | : | |

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705," filed April 24, 2009. Applicants submit that the correct patent term adjustment as of the mailing of the notice of allowance is three hundred eighty-nine (389) days, not one hundred sixty-six (166) days.

The request for reconsideration of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is one hundred ninety-two (192) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On January 26, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 166 days. Applicants dispute the reduction of 223 days associated with the filing of a supplemental response on November 4, 2008. Applicants argue that this 223 day period to submit a Supplemental Response was

necessitated by (1) a 208 day period for the Office to grant a Petition to Withdraw the Finality of a Restriction Requirement and (2) a specific request by the Examiner to submit a Supplemental Response in light of the grant of said Petition.

37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Applicants' arguments have been considered and found persuasive to an extent. It is only relevant in this instance whether the response was expressly requested by the examiner. Having considered the petition decision, the interview summaries of record and the response as filed, it is concluded that the response filed November 4, 2008 was expressly requested by the examiner. Accordingly, the period of reduction of 223 days entered pursuant to 37 CFR 1.704(c)(8) is not warranted and is being removed.

However, a review of the record also reveals that after the filing of a response on March 26, 2008, applicants had filed three other papers. Specifically, applicants filed Information Disclosure Statements (IDS) on May 9, 2008; June 19, 2008; and October 9, 2008. Applicants do not address these IDSs on instant application for patent term adjustment. The record supports a conclusion that the IDSs were not expressly requested by the examiner. Further, none of the IDSs included a §1.704(d) statement[1]. Thus, the IDSs remain supplemental papers within the

[1] The required statement: Each item of information contained in the information disclosure

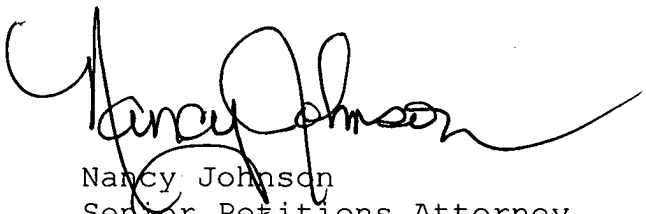
meaning of 37 CFR 1.704(c)(8). Accordingly, the patent term adjustment should have been reduced by 197 days, the number of days beginning on the day after the date the initial reply was filed, March 27, 2008, and ending on the date that the third supplemental paper was filed, October 9, 2008.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is one hundred ninety-two (192) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

---

statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004. This revision requires, *inter alia*, that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004.

| PTA Calculations for Application: 11/246524 | | | |
|---|---|---|---|
| Application Filing Date: | 10/11/2005 | PTO Delay (PTO): | 418 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 252 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 192 |
| PTO Delay Adjustment: | 26 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 69 | 08/24/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 197 | |
| 68 | 08/24/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | 223 | | |
| 59 | 01/26/2009 | MAIL NOTICE OF ALLOWANCE | 184 | | 29 |
| 58 | 01/15/2009 | ISSUE REVISION COMPLETED | | | |
| 57 | 01/15/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 56 | 01/15/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 55 | 01/15/2009 | DOCUMENT VERIFICATION | | | |
| 54 | 01/12/2009 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 53 | 01/12/2009 | NOTICE OF ALLOWABILITY | | | |
| 52 | 01/08/2009 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 51 | 05/09/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 50 | 06/19/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 49 | 10/09/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 47 | 12/29/2008 | CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA) | | | |
| 46 | 11/07/2008 | DATE FORWARDED TO EXAMINER | | | |
| 45 | 11/04/2008 | SUPPLEMENTAL RESPONSE | | 223 | 29 |
| 44 | 11/06/2008 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |
| 43 | 10/31/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 42 | 10/31/2008 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |

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|---|---|---|---|---|---|
| 41 | 10/28/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 40 | 10/09/2008 | REFERENCE CAPTURE ON IDS | | | |
| 39 | 10/09/2008 | ELECTRONIC INFORMATION DISCLOSURE STATEMENT | | | |
| 38 | 10/09/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 37 | 10/20/2008 | MAIL-PETITION DECISION - GRANTED | | | |
| 36 | 10/20/2008 | PETITION DECISION - GRANTED | | | |
| 35 | 03/26/2008 | PETITION ENTERED | | | |
| 34 | 06/19/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 33 | 05/09/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 32 | 06/19/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 31 | 05/09/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 30 | 05/03/2008 | DATE FORWARDED TO EXAMINER | | | |
| 29 | 03/26/2008 | RESPONSE AFTER NON-FINAL ACTION | | 29 | 27 |
| 28 | 03/26/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 27 | 11/26/2007 | MAIL NON-FINAL REJECTION | | | |
| 26 | 11/21/2007 | NON-FINAL REJECTION | | | |
| 23 | 11/06/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 22 | 02/22/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 20 | 09/12/2007 | DATE FORWARDED TO EXAMINER | | | |
| 19 | 09/04/2007 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 18 | 08/02/2007 | MAIL RESTRICTION REQUIREMENT | 234 | | -1 |
| 17 | 08/01/2007 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 16 | 04/12/2007 | PG-PUB ISSUE NOTIFICATION | | | |
| 15.7 | 02/22/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 15 | 02/22/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14.7 | 11/06/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14 | 11/06/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

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|---|---|---|---|---|---|
| 13 | 02/14/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 12 | 02/14/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 11 | 02/06/2006 | APPLICATION DISPATCHED FROM OIPE | | | |
| 10 | 02/06/2006 | APPLICATION IS NOW COMPLETE | | | |
| 9 | 01/17/2006 | ADDITIONAL APPLICATION FILING FEES | | | |
| 8 | 01/17/2006 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 7 | 11/15/2005 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 5 | 11/09/2005 | CLEARED BY L&R (LARS) | | | |
| 4 | 10/28/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 3 | 10/28/2005 | CASE CLASSIFIED BY OIPE | | | |
| 2 | 10/22/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/11/2005 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
George R. Bailey, et al. :
Application No. 11/246,527 : ON PETITION
Filed: October 11, 2005 :
Attorney Docket No. 069914-7701 :

This is a decision on the petition under 37 CFR 1.137(b), filed by September 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 1, 2005. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed on July 11, 2006. In response, on September 7, 2006, 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 executed declaration and the $130 surcharge; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed September 7, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

In re Application of :
Short et al. :
Application No. 11/246,536 : DECISION ON PETITION
Filed: 10/07/2005 :
Attorney Docket No. 1359-001 :

This is a decision on the petition under 37 CFR 1.181, filed March 26, 2009, to withdraw the holding of abandonment.

This application was held abandoned for failure to timely respond to the final Office action of July 23, 2008, which set a three-month shortened statutory period for reply. On February 19, 2009, the Office mailed a Notice of Abandonment.

Applicants assert that the Notice of Abandonment was issued in error and request that the Office withdraw the holding of abandonment. Specifically, applicants aver that they filed a timely and proper reply to the final Office action on January 23, 2009, in the form of a request for an extension of time for response within the third month, a notice of appeal, and the requisite fees.

A review of the record reveals that on January 23, 2009, the Office received the reply in the form of an extension of time for response within the third month, a notice of appeal, and the requisite fees. Thus, the two-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee, began to run from January 23, 2009, the date of filing the notice of appeal. Accordingly, applicants were required to submit an appeal brief or other appropriate response on or before March 23, 2009 (or as late as August 23, 2009, with a request for an extension of time for response within the fifth month and fee). The record further reveals that the Office received a request for an extension of time for response within the first month, an appeal brief, and the requisite fee on April 3, 2009.

In view of the above, applicants have shown that they submitted a timely reply and that the Notice of Abandonment was mailed in error. Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn and the application is restored to pending status.

The application will be forwarded to Technology Center AU 1796 for appropriate action on the appeal brief filed April 3, 2009.

As applicants filed a request for an extension of time for response within third month on January 23, 2009, the one month extension of time previously submitted on November 20, 2008, was not necessary. Accordingly, the $65.00 extension of time fee paid on November 20, 2008, will be refunded.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Paul John Eckersley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591334 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,540 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 Date: 04/21/2010

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| **Applicant** | : Paul Lander | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7596458 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,543 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Minneapolis, MN 55440-1022

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|---|---|---|
| In re Application of | : | |
| Sachar M. Paulus et al. | : | DECISION ON PETITION |
| Application No. 11/246,559 | : | TO EXPUNGE FILED |
| Filed: October 5, 2005 | : | UNDER 37 CFR 1.59(b) |
| For: ENTERPRISE INTEGRITY MODELING | : | |

This is a decision on the petition under 37 CFR 1.59(b), filed August 29, 2008, to expunge information from the above identified application.

The petition is DISMISSED.

Petitioner requests that a document considered to be propriety materials be expunged from the record.

"Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The petition is deficient because: the petition does not clearly identify the information requested to be expunged. An indication that the document "is confidential and purely for the attention and use by organizations that are Members of the Information Security Forum (ISF)" is not a proper way to identify the document to be expunged. Petitioner should identify the document by its title, author(s) and when it was submitted to the Office.

Any questions regarding this decision should be directed to Alexander Kalinowski at (571) 272-6771.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

ak/lm: 7/6/10

LM

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TECHNOLOGY CENTER 3600

In re Application of:
Patterson, Roger L.
Application No. 11/246,565
Filed: October 11, 2005
Attorney Docket : 80070-6202-ADB

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Jennifer Gay (571)-272-7029.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

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In re Application of:
B.L. Jailkhani et al.
Serial No.: 11/246,569
Filed: October 7, 2005
Attorney Docket No.: 4544-053080

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed December 15, 2008, requesting the Director, as indicated on page 7 of the Petition, to 1) enter the amendment submitted by applicants on July 21, 2008, 2) enter the Declaration filed under 37 CFR § 1.132 submitted by applicants on July 23, 2008, 3) forward the Appeal Brief to the Board for review and 4) refund applicant its legal fees and costs incurred in this Petition pursuant to the Federal Equal Access to Justice act.

BACKGROUND

The examiner mailed a non-final Office action on April 30, 2007, setting a three month statutory limit for reply. In this Office action, claims 1-9 were pending, claims 3-9 were withdrawn from examination as being directed toward a non-elected invention and claims 1-2 were examined on their merits. *Inter alia*, the examiner rejected claims 1-2 under 1) 35 U.S.C. 101 as being directed toward non-statutory subject matter, 2) under 35 U.S.C. 112, first paragraph, for lacking written description, 3) under 35 U.S.C. 112, first paragraph, for lacking scope of enablement, 4) under 35 U.S.C. 102(b) as being anticipated by Arockiasamy et al. and 5) under 35 U.S.C. 102(b) as being anticipated by Lowe et al. The examiner additionally rejected claim 2 alone under 35 U.S.C. 112, second paragraph, for being vague and indefinite.

In response to the non-final Office action of April 30, 2007, applicants filed remarks, arguments and amendments to claims 1 and added new claims 10-14 in a reply dated September 4, 2007. Applicants also filed an Information Disclosure Statement at about the same time on September 10, 2007.

The examiner mailed a Notice of Non-Responsive Amendment on October 18, 2007 indicating that the newly amended claimed invention was directed toward a non-elected invention. Applicants were given one month to supply the omission or correction in order to avoid abandonment of the application.

Applicants filed a revised amendment on November 9, 2007, including remarks arguments and amendments to claim 1 and the addition of new claims 10-15. It is noted that the claim amendments of November 9, 2007 did not comply with current amendment practice because these claims were not amended from the previous claims as entered on September 4, 2007. Nonetheless, the claims submitted by applicant on November 9, 2008 appear to replace the claims submitted on September 4, 2007 and were accepted by the examiner considering there was no objection to the claim amendment format pertaining to this amendment.

The examiner mailed a final Office action on February 8, 2008, setting a three month statutory limit for reply. In this Office action, claims 1and 3-15 were pending, claims 3-9 were withdrawn from examination as being directed toward a non-elected invention. It is pointed out herein that the examiner indicated on the PTOL-326 form which accompanied the final Office action that claims 1 and 10-15 were withdrawn and rejected. This was a typographical error as it is clearly indicated by the whole of the final Office action that claims 3-9 were withdrawn from consideration, as they were in the non-final Office action, and claims 1 and 10-15 were examined and rejected. *Inter alia*, the examiner objected to claims 11, 12 and 14 for reciting 'OmpC' because, as the examiner explained, the scientific nomenclature in the art typically does not capitalize the first letter and the gene names are generally italicized. As stated by the examiner: "...the claims should refer to the '*omp*C gene'. Additionally, the examiner instituted the following new rejections: The examiner rejected 1) claims 1 and 10-15 under 35 U.S.C. 112, first paragraph, for lacking scope of enablement, 2) claims 12-14 under 35 U.S.C. 112, second paragraph, for being vague and indefinite and 3) rejected claims 1 and 10-15 under 35 U.S.C. 103(a) as being unpatentable over Kossaczka et al. in view of Blanco et al.

On July 21, 2008, applicants submitted an after-final amendment comprising remarks, arguments and proposed amendments to claims 10, 11, 12, 13 and 14.

On July 23, 2008, applicants filed a Notice of Appeal concurrently with a Declaration filed under 37 CFR § 1.132 for the examiner's review.

On July 29, 2008, applicants filed an Appeal Brief appealing from the examiner to the Board of Patent Appeals and Interferences (BPAI).

On August 11, 2008 applicants filed an Information Disclosure Statement.

The examiner mailed a Notification of non-Compliant Appeal Brief on October 10, 2008 indicating to applicant reasons why the Appeal Brief filed on July 29, 2008 would not be entered into the record of the case. As an addendum to this Notification, the examiner indicated:

> [A] n after-final amendment was filed on 7/21/2008. The appeal brief does not indicate the status of this amendment. It is noted that this amendment itself is a non-compliant amendment and has not been entered. It is non-compliant because in claims 11, 12, and 14, the name of the gene was changed from non-italicized

text to italicized text and this amendment was not indicated as an amendment. In addition, the claims included with the appeal brief are the amended claims (that have not been entered) and in fact do not reflect the change in italicization discussed above. Third, the appeal brief does not contain a copy of the evidence submitted under 37 CFR 1.132 and does not correctly set forth where in the record that evidence was entered by the examiner. In addition, said declaration was not presented prior to the filing of the appeal brief and, as said declaration lacks a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented, said declaration has not been entered. It is additionally noted that applicant has filed an information disclosure statement after the final rejection (on 8/11/2008). Said information disclosure statement lacks the required statement under paragraph e of 37 CFR 1.97 and therefore will not be considered.

Applicants subsequently re-submitted the Appeal Brief on October 15, 2008. It is noted however, that the Appeal Brief incorporates the proposed claim changes as submitted with the after-final amendment which were not entered by the examiner.

In response thereto, applicants filed this petition under 37 CFR § 1.181on December 15, 2008, requesting the Director, as indicated on page 7 of the Petition, to 1) enter the amendment submitted by applicants on July 21, 2008 2) enter the Declaration filed under 37 CFR § 1.132 submitted by applicants on July 23, 2008 3) forward the Appeal Brief to the Board for review and 4) refund applicant its legal fees and costs incurred in this Petition pursuant to the Federal Equal Access to Justice act.

DISCUSSION

The petition and the file history have been carefully considered.

In this Petition, applicants commence their statements by indicating that the claimed invention is directed to the world's only typhoid vaccine effective in children. It appears that applicants have included these statements in order to punctuate the importance of their application. While applicants' statements are well-taken and duly noted, this petition is decided based upon the facts and evidence of the prosecution of this case in order to decide whether the examiner acted in accordance with the rules and guidance set forth in the MPEP which is afforded to any applicant filing such a petition.

Applicants, upon stating the history of prosecution in this case indicate that the examiner "alleged that vaccines are non-patentable subject matter under 35 U.S.C. § 101. The Examiner alleged that because the Examiner did not understand the structure of the OmpC protein, the inventors failed to comply with the written description requirement....[and] alleged that the invention ia [*sic*, is] anticipated under 35 U.S.C. § 102(b)..." (p. 2, Petition). However, applicants provide an unreasonable generalized portrayal of the examiner's rejections which are not entirely, factually correct. In the non-final Office action, the examiner did reject claims 1-2 under 35 U.S.C. 101, indicating that the claimed invention encompassed a natural protein, and an organism containing said protein; whereby such natural compositions of matter are unpatentable subject matter (see p. 2, non-final Office action). Hence, there were no comments by the examiner as alleged by applicants, which indicated that a vaccine is non-patentable subject matter. The rejection set forth over claims 1-2 by the examiner under 35 USC 112, first paragraph, pertaining to the lack of written description was based upon the level of a skilled

artisan, and not based solely upon the allegation that the examiner did not 'understand' the invention as asserted by applicants; rather, the examiner instituted this rejection by properly weighing the objective evidence as set forth in the specification as compared to the knowledge and unpredictability of the state of the art concerning OmpC proteins from *Salmonella typhi* Ty2 (see pp. 3-5, non-final Office action of April 30, 2007).

Applicants continue their arguments by stating that the examiner, upon mailing the final Office action, withdrew all of the previous grounds of rejection and "...introduced new factual evidence...and raised completely new grounds for rejection relying on newly-cited references". (p. 3, Petition). While the propriety of the examiner's final Office action is not questioned, applicants assert:

> Common sense, due process, the Federal Administrative Procedure Act and the Office's own regulations indicate the Applicant should have the opportunity to provide evidence and argument to rebut the Examiner's newly-raised evidence and argument. The Examiner nonetheless made his 8 February 2008 Action final and refused to entertain further prosecution.(p. 3, Petition).

While applicants should be provided the opportunity to traverse new rejections set forth in a final Office action and provide evidence in support of their traversals, an examiner will only consider such arguments and evidence if filed in proper compliance with 37 CFR 1.116. Applicants argue that Rule 41.33 (37 C.F.R. § 41.33) provides that:

> (d)(1) An affidavit or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date of filing a brief pursuant to § 41.37 may be admitted if the examiner determines that the affidavit or other evidence overcomes all rejections under appeal and that a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented has been made

In light of 37 C.F.R. § 41.33, applicants contend that "...Rule 41.33 imposes no such restriction on evidence filed ***before or on the same date as*** filing an appeal" (p. 4, petition, emphasis in applicants' original remarks). Applicants point out that the examiner, in the Notice of Non-Compliant Appeal Brief, incorrectly inferred that applicants' Declaration was filed after the filing of the Appeal Brief by indicating "..said declaration was not presented prior to the filing of the appeal brief, and, as said declaration lacks a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented, said declaration has not been entered." Applicants are correct and this statement appears to be an inadvertent error on the part of the examiner. It is clear from the history of this case that the Declaration was filed on July 23, 2008 and the Appeal Brief was filed on July 29, 2008 and thus, the Declaration was filed prior to the Appeal Brief. Pursuant to MPEP § 1206 I, Declarations submitted on the same date as a filing of the Notice of Appeal are treated as if the Declaration was filed *prior* to the Notice of Appeal:

> Any amendment, affidavit or other evidence filed *after the mailing of a final Office action and on the same date as the notice of appeal* will be treated by the Office as being filed prior to the notice of appeal and ***treated under 37 CFR 1.116.*** (emphasis added)

Subsequently, 37 CFR 1.116 provides for the following:

> (e) **An affidavit or other evidence submitted after a final rejection** or other final action (§ 1.113) **in an application** or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), **may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. (emphasis added)**

Hence, while the examiner inadvertently indicated that applicants' Declaration was filed after the filing of the Appeal Brief, the deficiency of the Declaration noted by the examiner in the Notice of Non-compliant Appeal Brief was nonetheless correct. A review of the Declaration submitted on July 23, 2008 reveals that said Declaration did not include any showing of good and sufficient reasons why the Declaration was not earlier presented, as correctly determined by the examiner.

Applicant asserts that "[t]he Office must enter the affidavit because in an adjudicative ...proceeding before an administrative agency, an applicant has a Constitutional right to respond to argument and evidence newly raised by the administrative agency"(p. 7, Petition; applicants' cite *Cleveland Bd. of Educ. v. Loudermill, Memphis Light, Gas & Water Div. v. Craft* and *Goss b. Lopez* in support of their assertions).

While it is true that "applicant has a Constitutional right to respond to argument and evidence newly raised by the administrative agency," entry of evidence after a final Office action must adhere to the Code of Federal Regulations; specifically, in the instant case, such evidence must abide by the provisions set forth in 37 CFR 1.116 for entry of evidence after final Office action. Thus, while applicants assert that they believe that "...the Office must enter this evidence as a matter of law," (emphasis added) the *proviso* is that the Office may enter the evidence when such evidence properly complies with the provisions set forth by 37 CFR 1.116.

More specifically, applicants argue that in *Coe v. United States ex rel Remington Rand, Inc.*, when the patent applicant filed an amendment after final in response to new grounds of rejection presented in the final Office action, and the examiner refused entry of the amendment. The United Stated Court of Appeals for the District of Columbia "compelled the Office to enter the amendment" as provided by applicants. This evidence, as it relates to applicants' amendment filed after-final is well-taken. However, in *Coe v. United States ex rel Remington Rand, Inc.*, the issue was an *amendment* filed after final Office action, and not evidence such as a Declaration. Therefore, this argument by applicants is not pertinent to the entry of applicants' Declaration filed after final Office action. Moreover, notwithstanding the outcome of *Coe v. United States ex rel Remington Rand, Inc.*, amendments and declarations filed after final Office action are not a matter of right and such submissions, in order to be entered into the record, must comply with 37 CFR 1.116. The failure of applicants' submissions to comply with 37 CFR 1.116 is addressed *supra.*

Applicants state: "The examiner does not dispute that Rule 41.339(d)(3) does not require a showing for evidence filed before appeal." (p. 8, Petition). However, the examiner made no such implied disputation of Rule 41.33(d)(a); on the contrary, the examiner merely inadvertently

stated that the declaration was not presented prior to the filing of the Appeal Brief. Even assuming *arguendo*, that the examiner did make such an implied assertion, the fact of the matter is that the Declaration *was filed after final Office action thereby requiring said Declaration to comply with 37 CFR 1.116* in order to be entered into the record of this case. Thus, applicants' contention that they were not required to provide a showing of 'good and sufficient reasons' are counterfactual and not in accord with Patent Law.

However, in this Petition, albeit *ex post facto*, applicants proffer 'good and sufficient reasons' for why the Declaration filed on July 23, 2008 was not presented earlier in prosecution by specifically indicating that applicants' Declaration was submitted in direct response to new rejections instituted by the examiner in the final Office action (p. 5, Petition). A review of the final Office action reveals that the examiner did present new grounds of rejection based upon applicants' amendments to the claims prior to said final Office action. Applicants therefore reasonably indicate that they could not have presented the Declaration earlier in prosecution and applicants' reasons are consequently accepted herein. Because the Declaration was filed on the same day as the Notice of Appeal and is thus treated under 37 CFR 1.116, and because this evidence is important to the outcome of this case and in direct response to new rejections raised in the final Office action, the Declaration is hereby ENTERED. Requiring applicants to file an RCE in order to have said Declaration reviewed by the examiner prior to Appeal would merely serve to further unnecessarily delay prosecution of this case.

Applicants contend that the Office must enter the amendment submitted by applicants on July 23, 2008. In support of their contentions, applicants argue that said amendment sought merely to expressly comply with the examiner's objections set forth in the final Office action (p. 9, Petition). Applicants additionally assert that "Office procedure gives the Examiner ten days to review that amendment and provide any objections to it" (MPEP § 714.13(III). "The Examiner did not raise any objection within ten days...the Examiner has not raised any objection for six months" (p. 10, Petition).

MPEP § 714.13.III:

> An examiner is expected to turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner. A reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office. (p. 7, petition).

Applicants correctly point out that the examiner did not mail an Official Advisory Action in response to Applicants' amendment after final Office action within ten days; nor at any time after the filing of the after-final amendment. It is reminded that MPEP § 714.13 provides:

> In the event that a *proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be* ***promptly informed*** of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.

Thus, even in situations where applicants have already filed an Appeal Brief by the time the examiner has had an opportunity to determine if proposed amendments and/or evidence filed after final Office action will be entered or place the claims in condition for allowance, it is the examiner's responsibility to timely provide applicant ample indication of the status of their proposed amendments and/or evidence. Hence, the delay in providing applicants this information concerning the non-entry of amendments and evidence after final Office action is regretful.

It is noted, however, that while the examiner did not mail an Official Advisory Action, the examiner did indicate in the Notice of Non-compliant amendment of October 10, 2008 that the after-final amendment as well as the Declaration were not entered. Thus, applicants' contention that the examiner did not raise *any* objection to the amendment filed after final Office action is contrary to the evidence of record in this case.

Applicants assert that the examiner "demanded an after-final amendment-but now refuses to enter it," (p. 5, Petition). Specifically, applicants assert that in the final Office action, the examiner objected to the term 'OmpC gene' as found in claims 11, 12 and 14 for not being italicized, and for the 'O' in 'OmpC' for being presented as a capital 'O' (see page 3, final Office action). The after-final amendment submitted by applicants to correct these deficiencies was refused entry as being non-compliant: "...in claims 11, 12, and 14, the name of the gene was changed from non-italicized text to italicized text and this amendment was not indicated as an amendment." (as stated by the examiner in said Notice of Non-Compliant Appeal Brief). Amendments to claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c)(2) which states, in-part:

> (2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text.

A review of the after-final amendment submitted on July 21, 2008 indicates that in claims 11, 12 and 14, applicant has changed the 'OmpC' to '*ompC* ' by providing amendments to claims 11, 12 and 14 reading; '~~O~~*ompC* '. Thus, it is evident, as properly indicated by the examiner, that the '*mpC* ' portion of this term has not been underlined to indicate a change from normal text to italicized text. Hence, while the changes proposed by applicants in their after-final amendment *were* in direct response to the examiner's objection set forth in the final Office action, said amendment was nonetheless non-responsive for the reasons correctly identified by the examiner in the Notice of Non-compliant Appeal Brief. Nevertheless, considering that the proposed changes in the amendment filed after-final which have been refused entry due to incorrect amendment markings are not substantive changes and because this amendment was a *bona fide* attempt to strictly comply with the examiner's objections as set forth in the final Office action, in order to facilitate prosecution of this case, applicant will be permitted to submit a revised amendment underlining the portion '*mpC*' of claims 11, 12 and 14. This revised amendment should indicate the exact changes as proposed in the after-final amendment submitted on July 21, 2008, but with proper markings to indicate *all* amendments made in said amendment. Applicants

are reminded that their proposed amendment filed on July 21, 2008 is not entered, and therefore, the changes made in a subsequent revised amendment must be made with regard to the last set of pending claims; those claims being the claims entered into the record on November 9, 2007. Hence, applicants' revised amendment should be the same as the proposed amendment filed after-final, with the *proviso* that the revised claim amendments will properly underline the *mpC* portion of claims 11, 12 and 14 which were overlooked in applicants' original after-final amendment. Such an amendment is asked to be sent expeditiously by applicant and will be promptly ENTERED. Upon entering said amendment, the claims pending in this application should be the same claims which appear in the Appeal Brief filed October 15, 2008.

Hence, applicants' arguments are persuasive in-part. Applicants' Declaration filed July 23, 2008 is hereby ENTERED. Applicants' amendment filed July 21, 2008 remains non-compliant and is not entered; however, a revised amendment complying with the provisions set forth above will be ENTERED. Applicants' request that the fees incurred upon filing this Petition have been carefully considered but are not found persuasive. Thus, applicants request for a refund is DENIED.

**DECISION**

The petition is **GRANTED IN-PART.**

This application will be forwarded to the examiner to consider the Declaration filed after-final Office action.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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ALAN J. HOWARTH
P.O. BOX 1909
SANDY UT 84091-1909

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
Neal H. Domgaard :
Application No. 11/246,571 : DECISION ON PETITION
Filed: October 7, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. T10702 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 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 declaration statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3643 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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OIPE IAP54 DEC 01 2005 PATENT & TRADEMARK OFFICE

# COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled "A DISPENSER FOR RELEASING A SUBSTANCE INTO A TOILET BOWL", the specification of which

[] is attached hereto.
[] was filed on _ as Application Serial No. _ and was amended on _____.
[X] was described and claimed in PCT International Application No.
PCT/GB00/00466 filed on 14 February 2000.

I hereby state that I have reviewed and understand the contents of the above- identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with 37 C.F.R ₥1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, ₥ 119 of any foreign applications(s) for patent or inventor's certificate or of any PCT International application(s) designating 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 any PCT International application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

| COUNTRY | APPLICATION NO. | FILING DATE | PRIORITY CLAIMED | |
|---|---|---|---|---|
| European | 99400368.9 | 16 February 1999 | [x] Yes | [ ] No |
| United Kingdom | 9905445.4 | 10 March 1999 | [x] Yes | [ ] No |

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Frederick H. Rabin, Reg. No. 24,488
B. Pegram, Reg. No. 25,198
Richard P. Ferrara, 30, 632
Samuel Borodach, Reg. No. 38,388

Andrew N. Parfomak, Reg. No. 32,431 John
William J. Hone, Reg. No. 26,739
Stephan J. Filipek , Reg. No. 33,384
Chris T. Mizumoto, Reg. No. 42,899

Address all telephone calls to FREDERICK H. RABIN at telephone number (212) 765-5070.

Address all correspondence to FREDERICK H. RABIN at:

FISH & RICHARDSON P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111.

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 1001of Title 18 and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

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## Combined Declaration And Power Of Attorney



Full Name of Inventor : Geoffrey Robert HAMMOND

Inventor's Signature: _____ Date: 12th September 2001

Residence: Hull, United Kingdom

Citizenship: British

Post Office Address: 574 James Reckitt Avenue, Hull, HU8 0LG, United Kingdom

Full Name of Inventor : Yannic HERMOUET

Inventor's Signature: _____ Date: _____

Residence: Verneuil sur Seine, France

Citizenship: French

Post Office Address: 3 Allée des Erables, 78480 Verneuil sur Seine, France

23 SEP 2004

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Fish & Richardson PC
225 Franklin Street
Boston, MA 02110

Reviewed By Practice Systems
Initials:
Reviewed By Billing Secretary
Initials:

In re Application of
HAMMOND, Geoffrey Robert, et al.
Application No.: 09/913,130
PCT No.: PCT/GB00/00466
Int. Filing Date: 14 February 2000
Priority Date: 16 February 1999
Attorney Docket No.: 08291-706001
For: TOILET BOWL DISPENSER APPARATUS

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

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This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 11 June 2004.

## BACKGROUND

On 14 February 2000, applicants filed international application PCT/GB00/00466, which claimed a priority date of 16 February 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 August 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 07 September 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 August 2001.

On 09 August 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 11 September 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 24 April 2002, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a petition for a four-month extension of time; the fee for a four-month extension of time; a declaration of inventorship executed by Geoffrey Robert Hammond; a statement of facts from Amanda J. Wilde; and copies of letters, emails and file notes.

On 21 June 2002, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 26 December 2002, applicants submitted Renewed Petition Under 37 CFR §1.47(a), accompanied by a petition for a four month extension of time and the fee for a four month extension of time.

On 20 February 2003, the Office mailed Decision on Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

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On 05 May 2003, applicants submitted a second renewed petition, accompanied by the fee for a one month extension of time.

On 14 May 2004, the Office mailed Decision On Petition Under 37 CFR 1.47(a) dismissing applicants' petition without prejudice.

On 11 June 2004, applicants submitted this instant renewed petition.

## DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) were previously met.

Item (2) has now been satisfied. Mr. Rabin declares that he spoke with Mr. Hermouet and that he acknowledged receiving the application papers and declaration, but was unwilling to sign them.

## CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **24 April 2002**.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Matthew Edward King | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644198 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,585 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **380** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**PO BOX 37428**
**RALEIGH NC 27627**

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OFFICE OF PETITIONS

In re Application of :
Doo-Hoon Goo et al :
Application No. 11/246,594 : DECISION GRANTING
Filed: October 7, 2005 : PETITION
Attorney Docket No. 5649-1647 :

This is a decision on the petition, filed March 20, 2009, requesting that the above-identified application be accorded a filing date of October 7, 2005, rather than the presently accorded date of October 6, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on October 7, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. EV675796845US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of October 7, 2005. Additionally, the copy of the express mail receipt shows a USPS receipt stamp date of October 7, 2005 in Raleigh NC.

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 October 7, 2005.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to **October 7, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SUITE 1111
526 SUPERIOR AVENUE
CLEVELAND, OH 44114-1400

In re application of : **DECISION ON PETITION**
James J. Malik : **TO MAKE SPECIAL**
Application No. 11/246,612 : **(APPLICANT'S AGE)**
Filed: October 07, 2005 :
For: BEDSPREAD HOLDER

This is a decision on the petition submitted on November 18, 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. Malik 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: 01/05/06

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OFFICE OF PETITIONS

In re Application of :
James SAMS III :
Application No. 11/246,619 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 1110P001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert Capriotti on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor James Sams III at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: James I. Sams, III
383 Bower Hill Road
Venetia, PA 15367

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OFFICE OF PETITIONS

In re
Downing, et al.
Application No. 11/246,625
Filed: October 6, 2005
Patent No. 7,120,982
Issued: October 17, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 9, 2009.

The fee deficiency submission under 37 CFR 1.28 of $1400 is hereby **accepted.**

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
HOWELL :
Application No. 11/246,647 : DECISION ON PETITION
Filed: October 06, 2005 : TO WITHDRAW
Attorney Docket No. 158572 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 23, 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 Melanie Martin-Jones on behalf of all attorneys of record who are associated with Customer No. 23570. All attorneys/agents associated with the Customer No. 23570 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 no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Michael Howell
Med Connect Health System, LLC
4859 Whisper Cove Court
Gahanna, OH 43230

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,647 | 10/06/2005 | Michael Howell | 158572 |

**CONFIRMATION NO. 7265**

*OC000000021273695*

23570
PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS, OH 43215

Date Mailed: 11/17/2006

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/23/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Carl Laurence Gonsalves | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590691 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,656 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 05/17/2010

**Applicant** : Carl Laurence Gonsalves
**Patent Number** : 7590691
**Issue Date** : 09/15/2009
**Application No**: 11/246,656
**Filed** : 10/07/2005

: 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 **224** 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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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUL 0 7 2008

**OFFICE OF PETITIONS**

In re Application of :
Barlaam, et al. :
Application No. 11/246,663 : DECISION GRANTING PETITION
Filed: October 7, 2005 :
Attorney Docket No. 1103326-0761-DIV 1 :

This is a decision on the petition under 37 CFR 1.182 filed June 10, 2008.

On October 7, 2005, the application was deposited.

On November 3, 2005, the Office of Patent Application Processing mailed a "Notice to File Corrected Application Papers requiring a substitute specification and allowing a two month period for reply. On January 3, 2005, applicant filed a response to the Notice to File Corrected Application Papers that included a substitute specification and drawings. The Office of Patent Application Processing changed the filing date for the application to January 3, 2006.

Petitioner now files the instant petition requesting the original filing date of October 7, 2005, be restored. Petitioner maintains that the original filing date of October 7, 2005, should be restored and notes that the figures noted in specification were present on filing and were embedded in the specification document and are, therefore, not new matter. Petitioner filed the figures separately on January 3, 2006, to avoid a possible objection to the embedded figures.

It has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one composition or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that several of the claims of this application are composition or method claims. Therefore, the application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as it was filed without the drawings, was entitled to the filing date of October 7, 2005. It is further noted that the examiner assigned to this application must determine whether the drawings filed January 3, 2006, are new matter. Applicant should, therefore, file a preliminary amendment, prior to the first action on the merits requesting entry of the drawings.

Deposit account 23-1703 will be refunded $400.00, in due course.

The application is being forwarded to the Office of Patent Application Processing for issuance of a corrected filing receipt and for further processing with a filing date October 7, 2005, and an indication in Office records that no drawings were present on filing.

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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**NATTER & NATTER**
**501 FIFTH AVENUE, SUITE 808**
**NEW YORK, NY 10017**

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
**Chan-Ha RA** :
Application No. 11/246,664 :
Filed: October 11, 2005 :
Attorney Docket No. **05-4858** :

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 19, 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 Seth Natter on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action (Notice of Allowance) mailed April 17, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **CHAN-HA RA**
**C/O DREAM CIGA TEC CO., LTD.**
**916-30 DAECHI-DONG, GANGNAM-GU**
**SEOUL, REPUBLICE OF KOREA 135-843**

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OFFICE OF PETITIONS

In re Application of

Kia Silverbrook

Application No. 11/246,667

Filed: October 11, 2005

Attorney Docket No. MNN021US

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed May 7, 2009.

The petition is **granted**.

This application was held abandoned June 20, 2008, after no reply was received to the Notice of Non-Compliant Amendment mailed June 25, 2008[1]. The notice set forth a shortened period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on July 26, 2008. A Notice of Abandonment was mailed May 19, 2008. The instant petition was filed on May 7, 2009. Petitioner maintains that the notice of June 25, 2008, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

[1] It is noted that there is an apparent inconsistency between the date UPSTO PALM computer records indicate that the notice was mailed (June 25, 2008) and the date that the IFW file indicates that the notice was mailed (May 19, 2008). It is most likely that the notice was on June 25, 2008, as applicant's response to the non-final Office action was not filed until May 19, 2008.

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2800, GAU 2853 for further processing that will include remailing the Notice of Non-Compliant Amendment and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
John Douglas Peter MORGAN et al. :
Application No. 11/246,676 : DECISION ON PETITION
Filed: October 11, 2005 :
Attorney Docket No. FND001US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 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 Restriction Requirement, mailed November 06, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 07, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election, previously submitted January 02, 2008 (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of November 06, 2007 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 $120.00 extension of time fee submitted with the petition on May 19, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2861 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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AUG 2 8 2008

**OFFICE OF PETITIONS**

In re Application of :
Morgan et al. :
Application No. 11/246,677 : ON PETITION
Filed: October 11, 2005 :
Attorney Docket No. FND002US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 1, 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 and a Terminal Disclaimer, (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 $2230.00 extension of time fee submitted with the petition on August 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2861 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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**Advantedge Law Group, LLC**
**3301 N. University Avenue**
**Suite 200**
**Provo, UT 84604**

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**OFFICE OF PETITIONS**

In re Application of
Todd K. Whitehurst et al.
Application No. 11/246,719
Filed: October 7, 2005
Attorney Docket No. 3013-0153 (05-00915-03)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "ownership transfer," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant, since no assignee has properly intervened in this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Todd K. Whitehurst
925 Elm Trail
Frazier Park, CA 93225

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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, Colorado 80537-0599

MAIL

MAY 16 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Kincaid, Robert :
Serial No.: 11/246,743 :
Filed: October 6, 2005 : DECISION ON PETITION
For: **FOCUS PLUS CONTEXT VIEWING AND MANIPULATION OF LARGE COLLECTIONS OF GRAPHS** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84(a)(2) filed October 2, 2006, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1-10, and 12-14 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition is **GRANTED**. The three (3) sets of color drawings filed November 2, 2006 are acceptable.

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

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**Wilson Sonsini Goodrich & Rosati**
**650 Page Mill Road**
**Palo Alto, CA 94304-1050**

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OFFICE OF PETITIONS

In re Application of :
Richard R. Stover et al. :
Application No. 11/246,763 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 30618-713.201 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 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 Vernon Norviel on behalf of attorney/agents associated with customer number 21971. All attorneys/agents associated with customer number 21971.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the assignee at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Pericor Therapeutics, Inc.
350 Fifth Avenue, 59th Floor
New York, NY 10118

cc: Pericor Therapeutics, Inc.
c/o Cooley Godward Kronish, LLP
777 6th Street, NW
Suite 1100
Washington, DC 20001

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/246,763 | 10/07/2005 | Richard R. Stover | 30618-713.201 |

**CONFIRMATION NO. 7150**

**POWER OF ATTORNEY NOTICE**

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Date Mailed: 04/28/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/07/2009.

- 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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OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
SUITE 121
DAHLGREN, VA 22448-5110

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James B. Johnson | : | |
| Application No. 11/246,780 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 44785-1 CIP (205786) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott R. Boalick on behalf of himself.

All attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Richard C. Johnson :
Application No. 11/246,783 : DECISION ON PETITION
Filed: October 7, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. IWW5926 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2005, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a letter from Dr. Denise A. Abselet D.O. attesting to the fact that the applicant was diagnosed with liver failure in 2001 along with being afflicted with other side effects and diseases. It is there clear from the evidence that the applicant might not be able to assist in the prosecution of the application due to the diagnosed illness if said prosecution were to run it's normal course. 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 Art Unit 3676 for 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
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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 |
|---|---|---|---|---|---|---|---|
| 11/246,784 | 10/07/2005 | 3677 | 615 | 81338-4598 | 17 | 22 | 3 |

**CONFIRMATION NO. 6966**

28765
WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON, DC 20006

**UPDATED FILING RECEIPT**

*OC000000017776620*

Date Mailed: 01/05/2006

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)**

Steven Kretchmer, Palenville, NY;
Joseph John Stupak JR., Portland, OR;

**Power of Attorney:**

Allan Fanucci--30256
Mark Dickson--32889
Scott Blackman--34088
Daniel Hulseberg--36554
Jeffrey Wolfson--42234

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/US04/10986 04/09/2004
which is a CIP of 10/411,619 04/10/2003
and claims benefit of 60/473,040 05/23/2003
and claims benefit of 60/473,041 05/23/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/02/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/246,784**

**Projected Publication Date:** 04/13/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Magnetically attractable components for jewelry articles

**Preliminary Class**

063

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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## 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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DON W. WEBER
235 BRISTOL
TROY, IL 62294

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Michael F. Birsner :
Application No. 11/246,805 : DECISION ON PETITION
Filed: October 11, 2005 : TO WITHDRAW
Attorney Docket No. 374 : FROM RECORD
:

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 4, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Don W. Weber has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Haverstock Garrett & Roberts LLP
611 Olive Street, Suite 1610
St. Louis, MO 63101

UNITED STATES PATENT AND TRADEMARK OFFICE

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**ADVANTEDGE LAW GROUP, LLC**
**3301 N. UNIVERSITY AVE.**
**SUITE 200**
**PROVO, UT 84604**

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Todd K. WHITEHURST, et al :
Application No. 11/246,807 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. 3013-0066 (05-00712-05) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, ownership transfer, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of :
Hamilton et al. :
Application No. 11/246,809 :
Filed: October 7, 2005 : Decision Refusing Status
Attorney Docket No. 2298P043 : Under 37 CFR 1.47(a)
For: Various Methods and Apparatuses :
for an Executable Parameterized :
Timing Model :

This is a decision on the petition under 37 CFR 1.47(a), filed April 7, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. 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.**

Petitioner asserts inventor Hamilton has refused to sign an oath or declaration.

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 petition does not state attorney Ferrill, who signed the petition, is the party to whom the inventor the refusal was made. A statement by a party with first hand knowledge of the refusal should be provided.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. The petition fails to discuss the circumstances surrounding the refusal. For example, was the refusal in person, on the phone, by e-mail, or by another method? A full discussion of the time, place, and method of refusal should be supplied.

Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

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
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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KENNETH J. LUKACHER
SOUTH WINTON COURT
3136 WINTON ROAD SOUTH, SUITE 301
ROCHESTER, NY 14623

COPY MAILED
NOV 2 8 2006
OFFICE OF PETITIONS

In re Application of :
Richard A. Holub :
Application No. 11/246,813 : DECISION ON PETITION
Filed: October 7, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. ML-0376C2 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed May 18, 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

Petitioner states "The present invention claims a system and method for rendering of digitally captured digital images on color rendering devices, such as printers, color monitors, and printing presses, by providing color transformations that can expand the gamut of the digital images for reproduction on color rendering devices, thus improving the rendering of color by such devices." This statement alone is insufficient to explain how the materiality standard is being met. Applicant's declaration with respect thereto have been carefully considered, but are not persuasive with respect to limiting the claims to an invention that materially enhances the quality of the environment.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1725 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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**KENNETH J. LUKACHER**
**SOUTH WINTON COURT**
**3136 WINTON ROAD SOUTH, SUITE 301**
**ROCHESTER, NY 14623**

MAILED

MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of :
**Richard A. HOLUB** :
Application No. 11/246,813 : DECISION GRANTING PETITION
Filed: October 7, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **ML-0376C2** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on March 19, 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. Kenneth J. Lukacher 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 2625 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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IBM Corporation
Intellectual Property Law
Dept. 917/Bldg. 006-1
3605 Highway 52 North
Rochester, MN 55901-7829

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kangguo Cheng | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638381 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,830 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **408** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Cary L. Bates | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590536 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,831 | : OF WYETH |
| **Filed** | : 10/07/2005 | : |
| | | : |

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA AZ 85201

**COPY MAILED**

JUN 20 2007

**OFFICE OF PETITIONS**

In re Application of :
MCCLAIN et al. :
Application No. 11/246,838 : DECISION ON PETITION
Filed: 10/07/2005 :
Attorney Docket No. ROWL-10803 :

This is a decision on the petition filed February 26, 2007, to withdraw the holding of abandonment for the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 1, 2006, 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 October 2, 2006.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the Restriction Requirement.

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

A review of the record indicates no irregularity in the mailing of the Restriction Requirement, and in the absence of any irregularity in the mailing, there is a strong presumption that the Restriction Requirement was properly mailed to the address of record. This presumption may be overcome by a showing that the Restriction Requirement was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of

non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances
that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Restriction Requirement would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Restriction Requirement was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

This matter is being referred to Technology Center Art Unit 1723 for review of the reply submitted on February 26, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/246,861 | 10/06/2005 | 2818 | 1200 | MI/245A | 5 | 20 | 4 |

**CONFIRMATION NO. 6777**

**CORRECTED FILING RECEIPT**

*OC000000017585534*

28596
GORE ENTERPRISE HOLDINGS, INC.
551 PAPER MILL ROAD
P. O. BOX 9206
NEWARK, DE 19714-9206

Date Mailed: 12/09/2005

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)**

Norman Clough, Residence Not Provided;
Zak Lutz, Residence Not Provided;
Gary Harp, Residence Not Provided;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/056,074 02/11/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 11/03/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/246,861**

**Projected Publication Date:** To Be Determined - pending completion of Missing Parts

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Fluoropolymer fiber composite bundle

**Preliminary Class**

438

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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## 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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SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS TX 75225

**COPY MAILED**

FEB 13 2008

**OFFICE OF PETITIONS**

In re Application of :
David Belew, et al. :
Application No. 11/246,896 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. 2101.101 :

This is a decision on the petition, filed September 12, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on September 12, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of May 15, 2008, has been mailed under separate cover.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

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 me filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact April Wise regarding the filing of the renewed petition under 37 CFR 137(b).

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: 1.137(f) Form

PTO/SB/64a (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| **PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))** | 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 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 or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

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. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is _____.



This collection of information is required by 37 CFR 1.137. 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.*

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice 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

☐ 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

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 |
|---|---|---|---|
| 11/246,896 | 10/07/2005 | David Belew | 2101.101 |

**CONFIRMATION NO. 5032**

52529
SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75225

**NONPUBLICATION RESCISSION LETTER**

Date Mailed: 02/05/2008

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/15/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75225

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MAR 19 2008

**OFFICE OF PETITIONS**

In re Application of :
David Belew, et al. :
Application No. 11/246,896 : DECISION ON PETITION
Filed: October 7, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2101.101 :

This is a decision on the renewed petition, filed March 3, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 6, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of May 15, 2008 was previously mailed on February 8, 2008.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center Art Unit 3672 for examination in due course.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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APR 0 1 2010

Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

| | | |
|---|---|---|
| In re Application of | : | |
| SALHAUER | : | DECISION ON PETITION |
| Application No. 11/246,899 | : | TO WITHDRAW |
| Filed: October 6, 2005 | : | RESTRICTION REQUIREMENT |
| For: FUNDING ACQUISITION | : | UNDER 37 CFR 1.144 |
| OF UNIVERSITY AND NON-PROFIT | : | |
| PATENT PORTFOLIOS | : | |

This is a decision on applicant's petition under 37 CFR 1.144 filed February 4, 2009 requesting withdrawal of a restriction requirement made in an Office action dated June 27, 2008 and holding final in an Office action dated October 2, 2008.

The petition is **DISMISSED as moot.**

Applicant alleges that the restriction requirement made on June 27, 2008 is improper in that the inventions are not independent and distinct.

A review of the record shows that in the Office action mailed on May 11, 2008, the examiner required a restriction between invention I of claims 1-17 directed to an investment method, invention II of claims 18-20 directed to a funding system, and invention III of claims 21-23 directed to a computer readable medium. The examiner's reason for restriction was that inventions I, II and III are related as process and apparatus for its practice, whereby the process as claimed can be practiced by another materially different apparatus or by hand. Applicant filed a response on July 28, 2008 electing with traverse invention I, claims 1-17. Applicant traversed on the grounds that the examiner has not shown a materially different apparatus that can practice the claimed method, that the method of claim 1 cannot be practiced by hand, and that the examiner has not met the serious burden criteria. The examiner held applicant's traversal arguments non-persuasive, and made the restriction requirement final in a non-final Office action mailed on October 2, 2008.

This petition was timely filed by applicant on February 4, 2009 along with an amendment responding to the Office action dated October 2, 2008. Subsequently, the examiner withdrew the restriction requirement and examined all of the claims 1-23 in a non-final Office action mailed on May 29, 2009. As claims 18-23 have been rejoined with claims 1-17 for examination, the petition is dismissed as moot since the issues raised in the petition are no longer pending.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Alexander Kalinowski at (571) 272-6771

Wynn Coggins, Director
Technology Center 3600
571-272-350

ak/lm: 3/25/10
LM

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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APR 12 2006

**OFFICE OF PETITIONS**

In re Application of :
WALEED HASSANEIN et al. :
Application No. 11/246,902 : DECISION REFUSING STATUS
Filed: October 7, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TRME-P01-001 :

This is in response to the petition filed March 22, 2006 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 7, 2005, without an oath or declaration. Accordingly, on October 28, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), a three month extension of time request and an oath or declaration signed by all joint inventors except Dmitri Menn was filed. The petition argues that joint inventor Dmitri Menn refuses to execute the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (4).

In regards to item (4), the last known addresses of joint inventor Dmitri Menn has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventor. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor. While Internet searches and directory assistance inquiries show diligent efforts, diligent efforts to locate a non-signing inventor should at least start with the last known address of the non signing inventor.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the last known address has been provided with a request for reconsideration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BOSTON, MA 02110-2624

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AUG 0 7 2006

OFFICE OF PETITIONS

In re Application of
WALEED HASSANEIN et al.
Application No. 11/246,902
Filed: October 7, 2005
Attorney Docket No. TRME-P01-001

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed June 12, 2006 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on October 7, 2005, without an oath or declaration. Accordingly, on October 28, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition and a three month extension of time request were filed March 22, 2006 arguing that joint inventor Dmitri Menn refused to execute the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. " 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

With the request for reconsideration, a statement of the last known address of non-signing inventor Menn has been provided and a copy of the oath or declaration executed by all of the joint inventors, except joint inventor Menn has been located in the file.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47( c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter will be referred to Technology Center 1744 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BOZICEVIC FIELD & FRANCIS LLP**
**1900 UNIVERSITY AVENUE, SUITE 200**
**EAST PALO ALTO, CA 94303**

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JUN 0 6 2007

**OFFICE OF PETITIONS**

In re Application of
**CHEN**, et al.
Application No. 11/246,904
Filed: October 6, 2005
Attorney Docket No. 054769-5702

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 21, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BOZICEVIC FIELD & FRANCIS LLP has been revoked by the assignee of the patent application on February 16, 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: **FOLEY & LARDNER LLP**
**P.O. BOX 80278**
**SAN DIEGO, CA 92138-0278**

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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APR 12 2006

**OFFICE OF PETITIONS**

In re Application of :
WALEED HASSANEIN et al. :
Application No. 11/246,905 : DECISION REFUSING STATUS
Filed: October 7, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TRME-P06-001 :

This is in response to the petition filed March 22, 2006 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 7, 2005, without an oath or declaration. Accordingly, on November 17, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a) and a two month extension of time request were filed. The petition argues that joint inventor Dmitri Menn refuses to execute the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (2) and (4).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. No such paper exists in the file with the signatures of all other inventors other than Mr. Menn.

A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The office must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

In regards to item (4), the last known addresses of joint inventor Dmitri Menn has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventor. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor. While Internet searches and directory assistance inquiries show diligent efforts, diligent efforts to locate a non-signing inventor should at least start with the last known address of the non signing inventor.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the last known address has been provided with a request for reconsideration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(b).

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ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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JUN 2 8 2006

OFFICE OF PETITIONS

In re Application of :
WALEED HASSANEIN et al. :
Application No. 11/246,905 : DECISION ACCORDING STATUS
Filed: October 7, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TRME-P06-001 :

This is in response to the request for reconsideration filed May 26, 2006 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on October 7, 2005, without an oath or declaration. Accordingly, on November 17, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition and a two month extension of time request were filed March 22, 2006 arguing that joint inventor Dmitri Menn refused to execute the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

With the request for reconsideration, a statement of the last known address of non-signing inventor Menn has been provided and a copy of the oath or declaration executed by all of the joint inventors, except joint inventor Menn has been located in the file.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47( c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter will be referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WILMERHALE/DC
1875 PENNSYLVANIA AVE., NW
WASHINGTON DC 20006

In re Application of :
Hassanein, et al. :
Application No. 11/246,905 : ON APPLICATION FOR
Filed: October 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 0113441-00142US3 :

This is in response to the APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702 - 1.705(b), filed September 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least five hundred twenty-nine (529) days, not three hundred thirty-three (333) 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).

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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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20006

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Waleed Hassanein | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7651835 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,905 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **522** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**SLATER & MATSIL, L.L.P.**
**17950 PRESTON ROAD**
**SUITE 1000**
**DALLAS TX 75252**

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**OFFICE OF PETITIONS**

In re Application of :
Dominik Olligs, et al. :
Application No. 11/246,908 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. QIM 2005 P 52074 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 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 3, 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) was obtained. Accordingly, the date of abandonment of this application is December 4, 2008. The Notice of Abandonment was mailed August 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2891 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

**VAN PELT, YI & JAMES LLP**
**10050 N. FOOTHILL BLVD #200**
**CUPERTINO CA 95014**

In re Application of
**MADSEN,** John et al.
Application No. 11/246,912
Filed: October 06, 2005
Attorney Docket No. **LUSSP001**

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 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 Terrence Wong on behalf of all attorneys of record who are associated with customer No. 21912. All attorneys/agents associated with the Customer Number 21912 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

(e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

There is an outstanding Office action mailed January 12, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHN MADSEN**
**P.O. BOX 5995**
**CARMEL CA 93921**

cc: **LUSSORI, INC.**
**1290 OAKMEAD PARKWAY**
**SUITE 301**
**SUNNYVALE CA 94058**

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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OFFICE OF PETITIONS

In re Application of
Weimer, et al.
Application No.: 11/246,913
Filed: October 7, 2005
Attorney Docket No.1026.05US06

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is in response to the "PATENT TERM ADJUSTMENT LETTER OF CNADOR AND GOOD FAITH" filed August 13, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C 154(b) be reviewed for accuracy.

The request for review of determination of the patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred seventy-seven (377) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On May 29, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 402 days. On August 13, 2009, applicants submitted the instant comment. Applicants disclose that applicants believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed May 29, 2009, is incorrect. Specifically, applicants state that:

> The attention of the Office is directed to the Patent Term Adjustment (PTA) reported by the Office for the instant case. As of August 13, 2009, the PTA tab in PAIR does not appear to reflect any event subsequent to the Notice of Allowance of May 29, 200[9]. Applicant wishes to draw Commissioner's attention to the Information Disclosure Statement filed on June 30, 2008 (after the Notice of

> Allowance), which the Office might consider to be possible cause for delay of 25 days under 37 C.F.R. 1.704(c)(10).

*Excerpt taken from "Patent Term Adjustment Letter of Candor and Good Faith", filed August 13, 2009, p. 1.*

A review of the application file reveals that on June 30, 2009, applicants filed an Information Disclosure Statement (IDS) after the mailing of the notice of allowance on May 29, 2009, which under the circumstances of this application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that applicants filed the IDS after the mailing of the notice of allowance. A review of the IDS filed on June 30, 2009, reveals that it did not include a § 1.704(d) statement. The Office responded to the IDS on July 24, 2009. Thus, the period of adjustment should have been reduced by the lesser period of 25 days, beginning on the date the IDS was filed, June 30, 2009, and ending on the mailing date of the Office action or notice in response to the IDS, July 24, 2009. Accordingly, a period of reduction of 25 days will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is three hundred seventy seven (377) days (463 days of Office delay - 86 (61 + 25) days of applicant delay.

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the $200.00 application fee under 37

1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Telephone inquiries regarding this specific matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Wednesday

Date: 12/16/2009

PALM INTRANET

Time: 10:30:36

| PTA Calculations for Application: 11/246913 | | | |
|---|---|---|---|
| Application Filing Date: | 10/07/2005 | PTO Delay (PTO): | 463 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 61 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 377 |
| PTO Delay Adjustment: | -25 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 71 | 12/16/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 25 | |
| 57 | 05/29/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 56 | 05/27/2009 | ISSUE REVISION COMPLETED | | | |
| 55 | 05/27/2009 | DOCUMENT VERIFICATION | | | |
| 54 | 05/27/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 53 | 05/22/2009 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |
| 52 | 05/15/2009 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 51 | 05/21/2009 | NOTICE OF ALLOWABILITY | | | |
| 50 | 05/20/2009 | DATE FORWARDED TO EXAMINER | | | |
| 49 | 05/18/2009 | AMENDMENT AFTER FINAL REJECTION | | | |
| 48 | 03/17/2009 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 47 | 03/13/2009 | FINAL REJECTION | | | |
| 46 | 03/10/2009 | DATE FORWARDED TO EXAMINER | | | |
| 45 | 03/02/2009 | AMENDMENT AFTER FINAL REJECTION | | | |
| 44 | 02/27/2009 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | |
| 43 | 02/24/2009 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 42 | 12/30/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 41 | 12/24/2008 | FINAL REJECTION | | | |
| 40 | 11/11/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 39 | 11/17/2008 | DATE FORWARDED TO EXAMINER | | | |
| 38 | 11/11/2008 | RESPONSE AFTER NON-FINAL ACTION | | 61 | 32 |

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|---|---|---|---|---|---|
| 37 | 11/11/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 36 | 11/11/2008 | REFERENCE CAPTURE ON IDS | | | |
| 35 | 11/11/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 34 | 11/11/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 33 | 10/08/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 32 | 06/11/2008 | MAIL NON-FINAL REJECTION | | | |
| 31 | 06/09/2008 | NON-FINAL REJECTION | | | |
| 24 | 01/26/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 23 | 04/21/2008 | DATE FORWARDED TO EXAMINER | | | |
| 22 | 04/14/2008 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 21 | 03/14/2008 | MAIL RESTRICTION REQUIREMENT | 463 | | -1 |
| 20 | 03/03/2008 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 19 | 01/17/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 18 | 03/31/2006 | MISCELLANEOUS INCOMING LETTER | | | |
| 17 | 03/30/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 16 | 03/30/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 03/14/2006 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 14 | 01/26/2006 | REFERENCE CAPTURE ON IDS | | | |
| 13.7 | 01/26/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 13 | 01/26/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 12 | 12/05/2005 | APPLICATION RETURN FROM OIPE | | | |
| 11 | 12/05/2005 | APPLICATION IS NOW COMPLETE | | | |
| 10 | 12/05/2005 | APPLICATION RETURN TO OIPE | | | |
| 9 | 12/01/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 8 | 12/01/2005 | APPLICATION IS NOW COMPLETE | | | |
| 7 | 11/18/2005 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 6 | 11/18/2005 | SMALL ENTITY STATEMENT (37 CFR 1.27) | | | |
| 5 | 11/18/2005 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 4 | 11/07/2005 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
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| 3 | 11/03/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 10/31/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/07/2005 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : John R. Weimer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7651034 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,913 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **733** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 05/18/2010

**Applicant** : John R. Weimer
**Patent Number** : 7651034
**Issue Date** : 01/26/2010
**Application No**: 11/246,913
**Filed** : 10/07/2005

: 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 **828** 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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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Sultan Ucar | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647558 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/246,924 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **610** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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**JAMES RAY & ASSOCIATES**
**2640 PITCAIRN ROAD**
**MONROEVILLE PA 15146**

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JUL 11 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Asvestas et al. | : | |
| Application No. 11/246,933 | : | ON PETITION |
| Filed: October 7, 2005 | : | |
| Attorney Docket No. BA 05108 | : | |

This is a decision on the petition filed February 25, 2008, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on October 6, 2005, which is the "date-in" or other official USPS notation on the Express Mail Mailing Label, instead of the currently accorded filing date of October 7, 2005

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)). 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 October 7, 2005.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

(1) be 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) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks item (3) above. Petitioner requests the filing date of October 6, 2005 on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the "date-in" or other official USPS notation on the "Express Mail" mailing label. Although petitioner did provide a copy of "Express Mail" mailing label no. EL 648603151 US, the "date-in" field is blank and there is no other official notation by the USPS on the label. It is impossible to determine if there is a discrepancy between the dates if the fields are blank.

The Office attempted to further substantiate petitioner's allegation that the application papers for this file were deposited on the requested filing date by performing an independent search of the USPS Express Mail Track and Confirm records. However, the USPS records indicated that there was no record of this item.

It is further noted that in the instant petition, petitioner requests a filing date of October 6, 2007, rather than October 6, 2005. It is believed petitioner inadvertently put 2007 rather than 2005. Petitioner should notify the Office in any renewed petition if the assumption is incorrect.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KENNETH J. LUKACHER
SOUTH WINTON COURT
3136 WINTON ROAD SOUTH, SUITE 301
ROCHESTER, NY 14623

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SEP 28 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Richard A. Holub | : | |
| Application No. 11/246,965 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. ML-0376D4 | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed May 18, 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

Petitioner states "The present invention solves the problem in the printing and publishing industry of assuring that color reproduced at different sites by different rendering devices, such as printer, color monitors, large printing presses, and proofing devices, appear that same." This statement alone is insufficient to explain how the materiality standard is being met. Applicant's declaration with respect thereto have been carefully considered, but are not persuasive with respect to limiting the claims to an invention that materially enhances the quality of the environment.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2625 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**MICHAEL BEST & FRIEDRICH LLP**
**TWO PRUDENTIAL PLAZA**
**180 NORTH STETSON AVENUE, SUITE 2000**
**CHICAGO, IL 60601**

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| | | |
|---|---|---|
| In re Application of | : | |
| Brewin et al. | : | |
| Application No. 11/246,968 | : | DECISION ON PETITION |
| Filed: October 7, 2005 | : | |
| Attorney Docket No. 020983-9013-01 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 20, 2008, as required by the Notice of Allowance and Fee(s) Due mailed May 20, 2008. Accordingly, the date of abandonment of this application is August 21, 2008. A Notice of Abandonment was mailed August 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Application of :
Roy J. Mankovitz :
Application No. 11/246,972 : DECISION ON PETITION
Filed: May 1, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. MRJ-13202/03 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 24, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a signed Declaration under 37 C.F.R 1.102(c)(1) stating that applicant 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 Charles Smoot at 571-272-3299.

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 3636 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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PAUL V. KELLER
4585 LIBERTY ROAD
SOUTH EUCLID, OH 44121

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OFFICE OF PETITIONS

In re Application of :

Haoran Hu et al :
Application No. 11/246,974 :
Filed: October 7, 2005 :
Attorney Docket No. 04-TRN-120 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed October 7, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The instant petition states "the invention provides systems and methods for controlling NOx emissions from diesel engines." Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 572-272-3210.

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 3681 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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MEDICAL DIAGNOSTIC LABORATORIES LLC
2439 KUSER ROAD
HAMILTON NJ 08690

In re Application of:
Adelson et al.
Application No. 11/246,976
Filed: October 7, 2005
Docket No.: P2-NON-1
PGPUB: n/a

: ON PETITION

This is a decision on the petition filed June 9, 2006, under 37 CFR 1.181 requesting return of the original copy of the assignment document submitted to the USPTO for recordation.

The petition is **dismissed.**

Petitioner asserts that the original document was submitted in error and desires its return. Unfortunately, that is not possible.

Effective June 25, 2004, the rules were amended to eliminate an original assignment document from the list of documents that could be submitted for recordation. See 69 F.R. 29865 (May 26, 2004). 37 CFR 3.24(b) was amended to recite that "The Office will not return recorded documents, so original documents must not be submitted for recording." Petitioner misconstrues the rule change and contends that the USPTO should not have recorded the original document.

However, that is not a correct interpretation of the effect on USPTO practice of the rule change. Rather, the intent of the rule change was to place registered practitioners and the general public on notice that as the USPTO would no longer be returning assignment documents after recordation, the assignee assumed the risk of certain loss if the original were submitted. Indeed, the F.R. included the caveat that "any assignee that submits the original assignment document will be unable to retrieve the document." Id. Indeed, the public was further informed that the submitted assignment documents would be "scanned and then destroyed according to a record retention schedule." Id at 29866. For those reasons, submission of a copy of the original was required by the rules. There was no reasonable inference or implication that an original document would be retained or refused recordation merely because it was an original in lieu of the copy required by the rules.

Accordingly, no error is seen in the USPTO having recorded an original assignment document. Likewise, no error is apparent in that the USPTO did not return the recorded assignment document.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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**DUNLAP CODDING & ROGERS, P.C.**
**PO BOX 16370**
**OKLAHOMA CITY, OK 73113**

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APR 28 2008

**OFFICE OF PETITIONS**

In re Application of :
Martin E. ADELSON et al. :
Application No. 11/246,976 :
Filed: October 07, 2005 :
Attorney Docket No. **P2-NON-1** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 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 $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 25, 2007 is accepted as having been unintentionally delayed.

The power of attorney filed with the petition on March 14, 2008 has been accepted and made of record.

The application file is being referred to Technology Center AU 1637 for appropriate action on the concurrently filed response.

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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OFFICE OF PETITIONS

Medical Diagnostic Laboratories, LLC
2439 Kuser Road
Hamilton, NJ 08690

In re Application of :
Martin E. Adelson, et. al. :
Application No. 11/246,976 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. MDL-0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed May 30, 2008. A Notice of Abandonment was mailed on December 22, 2008.

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) (1).

Petitioner asserts that "outside counsel did not forward the Office action to us and we were unaware of the 5/30/08 Office action".

In view of the above, revival of the instant application cannot occur until a proper reply has been received. To complete petitioner's records, a courtesy copy of the May 30, 2008 Office action is enclosed with this decision.

As requested, the $810 petition fee has been charged to petitioner's deposit account.

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) is 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
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Non-final Office action dated May 30, 2008.

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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/246,976 | 10/07/2005 | Martin E. Adelson | 4974.003 | 6956 |

30589 7590 05/30/2008
DUNLAP CODDING & ROGERS, P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

| EXAMINER | |
|---|---|
| BAUGHMAN, MOLLY E | |
| ART UNIT | PAPER NUMBER |
| 1637 | |
| MAIL DATE | DELIVERY MODE |
| 05/30/2008 | 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.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/246,976 | ADELSON ET AL. | |
| | Examiner | Art Unit | |
| | Molly E. Baughman | 1637 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 March 2008*.

2a)☐ This action is FINAL. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5,7,9,10,12,14 and 33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-5, 7, 9-10, 12, 14, and 33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. Applicant's amendments to claim 1 and cancellation of claims 2, 6, 8, 11, 13, and 15-32 in the reply filed on 3/14/08 are acknowledged.

2. Applicant's arguments, see pg.1-6, filed 3/14/08, with respect to the rejection(s):

   a. Claims 1, 3, 9, 14-20, and 26-27 rejected under 35 U.S.C. 102(b) - Burrows et al., "Detection and subtyping of Herpes Simplex virus in clinical samples by LightCycler PCR, enzyme immunoassay and cell culture," BMC Microbiology, June 2002, Vol.2, No.12, pp.1-7.

   b. Claims 4 and 21 under 35 U.S.C. 103(a) - Burrows et al. (2002) as applied to claims 1, 3, 9, 14-20, and 26-27 above, and in view of Ryncarz et al., "Development of a High-Throughput Quantitative Assay for Detecting Herpes Simplex Virus DNA in Clinical Samples," J.Clinical Micro., 1999, Vol.37, No.6, pp.1941-1947.

   c. Claims 5-8, 10-13, 22-25 and 28-31 rejected under 35 U.S.C. 103(a) - Burrows et al. (2002) as applied to claims 1, 3, 9, 14-20, and 26-27 above, and in view of Burke et al. (US 5,648,079), and in view of Buck et al., "Design Strategies and Performance of Custom DNA Sequencing Primers," Biotechniques, Sept. 1999, Vol.27, No.3, pp. 528-536.

have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Burrows et al., "Detection and subtyping of Herpes Simplex virus in clinical samples by LightCycler PCR, enzyme immunoassay and cell culture," BMC

Microbiology, June 2002, Vol.2, No.12, pp.1-7 (of record), in view of Ryncarz et al., "Development of a High-Throughput Quantitative Assay for Detecting Herpes Simplex Virus DNA in Clinical Samples," J.Clinical Micro., 1999, Vol.37, No.6, pp.1941-1947 (of record).

3. Claims 1, 3-5, 7, 9-10, 12, 14, and 33 are currently under examination.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3, 4, 9, 14, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows et al., "Detection and subtyping of Herpes Simplex virus in

clinical samples by LightCycler PCR, enzyme immunoassay and cell culture," BMC Microbiology, June 2002, Vol.2, No.12, pp.1-7 (of record), in view of Ryncarz et al., "Development of a High-Throughput Quantitative Assay for Detecting Herpes Simplex Virus DNA in Clinical Samples," J.Clinical Micro., 1999, Vol.37, No.6, pp.1941-1947 (of record).

Regarding claims 1, 3, 9, 14, and 33, Burrows et al. discuss a method of detecting and subtyping Herpes simplex virus (HSV) in a LightCycler PCR assay. In their method, they describe amplifying various specimens in one reaction for the detection of both HSV subtypes, HSV-1 and HSV-2, using one pair of primers to amplify both subtypes, and two probes, each specific for HSV-2, during a real-time PCR reaction to screen for HSV (pg.5, Materials and Methods – Specimens, LightCycler PCR). The subtypes were differentiated using the melting temperatures, wherein a first signal detected indicated the presence of HSV-1, and a second signal detected indicated the presence of HSV-2 (Figures 1 and 2, Table 1, and pg.4 – HSV subtyping by LC-PCR and culture amplified test).

Burrows et al. do not discuss the method where they use two different probes, one probe specific for the first strain (i.e. HSV-1) and the second specific for the second strain (i.e. HSV-2).

Ryncarz et al. discuss a method of detecting and typing herpes simplex virus using real-time PCR using HSV primers capable of amplifying the HSV glycoprotein G of both HSV-1 and HSV-2, and two dye-labeled probes, one probe for each HSV-1 or –

2, in a single PCR amplification (Abstract and pg.1942, "PCR primers and probes", 2nd paragraph).

Regarding claim 4, although Ryncarz does not use primers or probes targeted to the glycoprotein B gene in the same typing assay, he does demonstrate the usefulness of targeting the glycoprotein B gene in a separate Taqman PCR assay using primers and a type common probe targeted to the HSV glycoprotein B gene (see pg.1942, second column, "PCR primers and probes," first paragraph).

One of ordinary skill in the art would have been motivated to modify the method of Burrows et al. to use two separate probes, each probe specific for a different HSV strain, because not only does Ryncarz demonstrate that it was conventional in the art to create and use probes specific to each subtype in a single Taqman PCR reaction, he also states that using two probes, one specific for HSV-1 and the other specific for HSV-2, allows for a more specific typing method (pg.1943, "HSV DNA typing"), simultaneous detection in a single PCR tube, and allows for the ability to retest a sample of the original purified DNA to quantify as well as subtype the virus (pg.1947). One of ordinary skill in the art would have been motivated to modify the method of Burrows et al. to use primers which amplify at least a segment of the open reading frame of the gene encoding glycoprotein B of a first and second strain of a herpes virus because Ryncarz et al. demonstrates the benefits of targeting glycoprotein B for the detection of HSV (Abstract, and Figure 1), and states that amplification of the glycoprotein B gene of HSV provides "excellent discrimination between the results for positive samples and those for negative samples, which contained all reagents except for the HSV gB amplicon" and

as shown in Figure 2, Ryncarz further expresses that the "clear separation on a logarithmic scale between high- and low-titer patient specimens, along with the closeness of the results for the replicate samples for each specimen, indicates the precision and accuracy of the technique and the instrumentation" (pg.1943, Results, 1st column). Therefore, the skilled artisan would have had a reasonable expectation of success in using universal primers and type-specific probes targeting glycoprotein B to detect a first and second strain of a herpes virus in the method of Burrows et al. for the added benefit of greater specificity, and reproducibility. It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to carry out the claimed methods and use the claimed probes specific for each subtype and amplification of glycoprotein B therein.

7. Claims 5, 7, 10, and 12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows et al. (2002), in view of Ryncarz et al. (1999), as applied to claims 1, 3, 4, 9, 14, and 33 above, and further in view of Burke et al. (US 5,648,079), and Buck et al., "Design Strategies and Performance of Custom DNA Sequencing Primers," Biotechniques, Sept. 1999, Vol.27, No.3, pp. 528-536.

The teachings of the primary references are discussed above. These references do not discuss a sequence comprising or consisting of the primers of SEQ ID NO: 5 and 6, nor a sequence comprising or consisting of the probes of SEQ ID NO: 7 and 8.

Burke et al. disclose nucleic acid and amino acid sequences of glycoprotein B for HSV-1 and HSV-2 in Figure 4 A-F (column 2, lines 23-26). In Figure 4D, sequences

1467-1486 of both sequences correspond to the instant primer SEQ ID NO:6, sequences 1573-1600 of both sequences correspond to the instant primer SEQ ID NO:5, wherein such sequences can be used to amplify both strains of HSV since they show nucleic acid homology between the two strains. Also in Figure 4D, sequences 1539-1566 of the top nucleic acid sequence corresponds to the instant probe of SEQ ID NO:8, and sequences 1541-1562 of the lower nucleic acid sequence corresponds to the instant probe of SEQ ID NO:7, wherein such sequences can be used to distinguish between the two strains of HSV since they are unique for each strain.

The above described references do not specifically disclose the primer sequences of SEQ ID NOs: 5 and 6, nor the probe sequences of SEQ ID NO: 7 and 8, used in the claimed invention.

In the court decision *In Re Deuel* 34 USPQ 2d 1210 (Fed. Cir. 1995), the Court of Appeals for the Federal Circuit determined that the existence of a general method of identifying a specific DNA does not make the specific DNA obvious. Regarding structural or functional homologs, however, the Court stated,

"Normally, a *prima facie* case of obviousness is based upon structural similarity, i.e., an established structural relationship between a prior art compound and the claimed compound. Structural relationships may provide the requisite motivation or suggestion to modify known compounds to obtain new compounds. For example, a prior art compound may suggest its homologs because homologs often have similar properties and therefore chemists of ordinary skill would ordinarily contemplate making them to try to obtain compounds with improved properties."

Since the claimed primers and probes simply represent structural homologs, which are derived from sequences suggested by the prior art as useful for detecting the glycoprotein B gene of HSV-1 and/or HSV-2 and concerning which a biochemist of

ordinary skill would attempt to obtain alternate compounds with improved properties, the claimed primers and probes are *prima facie* obvious over the cited references in the absence of secondary considerations.

Buck expressly provides evidence of the equivalence of primers. Specifically, Buck invited primer submissions from a number of labs (39) (page 532, column 3), with 69 different primers being submitted (see page 530, column 1). Buck also tested 95 primers spaced at 3 nucleotide intervals along the entire sequence at issue, thereby testing more than 1/3 of all possible 18 mer primers on the 300 base pair sequence (see page 530, column 1). When Buck tested each of the primers selected by the methods of the different labs, Buck found that EVERY SINGLE PRIMER worked (see page 533, column 1). Only one primer ever failed, No. 8, and that primer functioned when repeated. Further, EVERY SINGLE CONTROL PRIMER functioned as well (see page 533, column 1). Buck expressly states "The results of the empirical sequencing analysis were surprising in that nearly all of the primers yielded data of extremely high quality (page 535, column 2)." Therefore, Buck provides direct evidence that all primers would be expected to function, and in particular, all primers selected according to the ordinary criteria, however different, used by 39 different laboratories. It is particularly striking that all 95 control primers functioned, which represent 1/3 of all possible primers in the target region. This clearly shows that every primer would have a reasonable expectation of success.

One of ordinary skill in the art would have been motivated to modify the method of Burrows et al., as modified by Ryncarz et al., to use primers comprising or consisting of SEQ ID NO: 5 and 6, and use probes comprising or consisting of SEQ ID NO: 7 and 8 because Burke et al. demonstrates that sequences of each strain (type 1 and type 2) of HSV were known in the art, shows areas of variation, as well as areas of homology between the two sequences, and discusses using the sequences in Figure 4A-F to detect and distinguish the two viruses (column 6, lines 1-8, 48-55; column 8, lines 5-22; column 9-10, lines 35-67, 1-15, column 16, lines 35-58; column 20, lines 21-28 ). Furthermore, Buck et al. demonstrate the capability of multiple primers to equivalently amplify the same targeted region. Therefore, the skilled artisan would have had a

reasonable expectation of success in using the sequences taught by Burke to make the primers of SEQ ID NO: 5 and 6, and probes of SEQ ID NO: 7 and 8 for use in the method of Burrows et al., as modified by Ryncarz et al. It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to carry out the claimed methods and use the claimed primers comprising or consisting of SEQ ID NO: 5 and 6, and use probes comprising or consisting of SEQ ID NO: 7 and 8 therein.

***SUMMARY***

8. No claims are free of the prior art.

***CONCLUSIONS***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Molly E. Baughman whose telephone number is 571-272-4434. The examiner can normally be reached on Monday-Friday 8-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth R Horlick/
Primary Examiner, Art Unit 1637

/Molly E Baughman/
Examiner, Art Unit 1637

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Medical Diagnostic Laboratories, LLC
2439 Kuser Road
Hamilton, NJ 08690

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AUG 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Martin E. Adelson, et. al. :
Application No. 11/246,976 : ON PETITION
Filed: October 7, 2005 :
Attorney Docket No. MDL-0002 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 29, 2009, to revive the above-identified application.

In response to the petition decision mailed February 25, 2009, petitioner submits the present renewed petition along with an amendment and $245 for a two month extension of time filed on June 29, 2009.

As the requirements under 37 CFR 1.137(b) has been met, the renewed petition is **granted**.

Since the petition fee of $810 was charged twice to petitioner's deposit account on February 4, 2009 and June 29, 2009, one of these fees will be considered as a duplicate payment and refunded to petitioner's deposit account, in due course.

This application file is being referred to Technology Center Art Unit 1637 for review of the amendment filed with the renewed petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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**SHUMAKER LOOP & KENDRICK**
**101 E. KENNEDY**
**SUITE 2800**
**TAMPA, FL 33672-0609**

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of :
Robert B. MORGAN :
Application No. 11/246,986 : DECISION ON PETITION
Filed: October 7, 2005 : TO WITHDRAW
Attorney Docket No. R864970.10604 FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 21, 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 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.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Robin W. Asher
Clark Hill, PLC - Suite 3500
500 Woodward Avenue
Detroit, MI 48226-3435

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of :
Wilhelm Kreutzberg :
Application No. 11/246,988 : DECISION ON PETITION
Filed: October 7, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 22204-102968 :

This is a decision on the petition under 37 CFR 1.55(c), filed April 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign German Application No. DE 10 2004 050 036.3, filed October 7, 2004.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on October 7, 2005, which is after November 29, 2000 and within 12 months of October 7, 2004 (the filing date of the foreign application to which benefit is now being claimed). On April 16, 2007, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided a proper statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

Since the claim for priority or the certified copy of the foreign application was not filed after payment of the issue fee, the $130 processing fee submitted on April 16, 2007 will be credited to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 3679, for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/246,988 | 10/07/2005 | 3679 | 1130 | 22204-102968 | 14 | 1 |

**CONFIRMATION NO. 8391**

**CORRECTED FILING RECEIPT**

Robin W. Asher
Clark Hill PLC
Suite 3500
500 Woodward Avenue
Detroit, MI 48226-3435

*OC000000026801475*

Date Mailed: 11/19/2007

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)**

Wilhelm Kreutzberg, Peine, GERMANY;

**Power of Attorney:**
David Simonelli--36680
Robin Asher--41590
Jay Paranjpe--45486

**Domestic Priority data as claimed by applicant**

**Foreign Applications**
GERMANY 10 2004 050 036.3 10/07/2004

**If Required, Foreign Filing License Granted:** 11/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/246,988**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Arrangement for connecting two elements

**Preliminary Class**

403

## 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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TIPTON L. RANDALL
19371 55TH AVENUE
CHIPPEWA FALLS, WI 54729

**COPY MAILED**

NOV 30 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James Alroy E. Hagguist et al | : | DECISION ON PETITION |
| Application No. 11/246,992 | : | TO MAKE SPECIAL UNDER |
| Filed: October 7, 2005 | : | 37 CFR 1.102(c)(1) |
| Attorney Docket No. TLR-5203 US | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 7, 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 drive's license of one of the named inventors indicated that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.
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 1714 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

In re Application of :
Ni, et al. : DECISION ON APPLICATION
Application No.11/246,999 : FOR
Filed: October 11, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No.
PF489P2D1

This is a decision on the petition filed on December 23, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred ninety-one (391) 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 three hundred and ninety-one (391) 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 **three hundred ninety-one (391)** 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 Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery 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 : 7,446,176 B2

DATED : November 4, 2008 **Draft**

INVENTOR(S) : Ni 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 (367) days

Delete the phrase "by 367 days" and insert – by 391 days--

Day : Monday
Date: 3/15/2010

PALM INTRANET

Time: 14:03:52

| PTA Calculations for Application: 11/246999 | | | |
|---|---|---|---|
| Application Filing Date: | 10/11/2005 | PTO Delay (PTO): | 367 |
| Issue Date of Patent: | 11/04/2008 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 0 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 391 |
| PTO Delay Adjustment: | 24 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 70 | 03/15/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | 24 | | |
| 62.5 | 10/15/2008 | PTA 36 MONTHS | | | |
| 62 | 11/04/2008 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 61 | 10/09/2008 | EXPORT TO FINAL DATA CAPTURE | | | |
| 60 | 10/07/2008 | FINISHED INITIAL DATA CAPTURE | | | |
| 59 | 10/08/2008 | DISPATCH TO FDC | | | |
| 58 | 09/22/2008 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 57 | 09/19/2008 | ISSUE FEE PAYMENT VERIFIED | | | |
| 56 | 09/19/2008 | ISSUE FEE PAYMENT RECEIVED | | | |
| 55 | 08/06/2008 | WORKFLOW - QUERY REQUEST - FINISH | | | |
| 54 | 08/01/2008 | MAIL EXAMINER'S AMENDMENT | | | |
| 53 | 08/01/2008 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 52 | 07/14/2008 | PUBS CASE REMAND TO TC | | | |
| 51 | 07/16/2008 | WORKFLOW - QUERY REQUEST - BEGIN | | | |
| 50 | 07/03/2008 | RECEIPT INTO PUBS | | | |
| 49 | 07/03/2008 | SEQUENCE FORWARDED TO PUBS ON TAPE | | | |
| 48 | 06/23/2008 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 46 | 06/19/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 45 | 06/18/2008 | ISSUE REVISION COMPLETED | | | |
| 44 | 06/18/2008 | DOCUMENT VERIFICATION | | | |
| 43 | 06/18/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 42 | 06/18/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 41 | 06/18/2008 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 40 | 06/18/2008 | NOTICE OF ALLOWABILITY | | | |

| | | | | | |
|---|---|---|---|---|---|
| 39 | 06/12/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 36 | 06/12/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 30 | 04/02/2008 | FAOM FLAG CHANGE | | | |
| 29 | 04/02/2008 | ADD FAOM COUNT | | | |
| 28 | 03/28/2008 | DATE FORWARDED TO EXAMINER | | | |
| 27 | 03/11/2008 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 26 | 03/11/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 25 | 12/13/2007 | MAIL RESTRICTION REQUIREMENT | 367 | | -1 |
| 24 | 12/10/2007 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 22 | 01/31/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 19 | 02/13/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 18 | 02/13/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 17 | 01/12/2006 | PRELIMINARY AMENDMENT | | | |
| 16 | 02/02/2006 | APPLICATION RETURN FROM OIPE | | | |
| 15 | 02/02/2006 | APPLICATION IS NOW COMPLETE | | | |
| 14 | 11/22/2005 | CLEARED BY L&R (LARS) | | | |
| 13 | 11/15/2005 | NOTICE OF OMITTED ITEMS | | | |
| 12 | 11/15/2005 | APPLICATION RETURN TO OIPE | | | |
| 11 | 11/15/2005 | APPLICATION RETURN FROM OIPE | | | |
| 10 | 11/15/2005 | APPLICATION IS NOW COMPLETE | | | |
| 9 | 11/15/2005 | APPLICATION RETURN TO OIPE | | | |
| 8 | 11/15/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 7 | 11/15/2005 | APPLICATION IS NOW COMPLETE | | | |
| 6 | 11/02/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 5 | 11/02/2005 | CASE CLASSIFIED BY OIPE | | | |
| 4 | 10/30/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 3 | 10/20/2005 | CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE | | | |
| 2 | 10/11/2005 | CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT | | | |
| 1 | 10/11/2005 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

**EXPLANATION OF PTA CALCULATION**

## EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.
Back to OASIS | Home page

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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Melvyn Gill | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7578934 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,025 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **910** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Roger Fulghum
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Vijay B. Nijhawan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7577813 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/18/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,036 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **309** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kazuo Konabe | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7659335 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,044 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Morristown, NJ 07962-2245

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gabriel A. Bergman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636604 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,079 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **75** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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8 East Broadway
Suite 600
Salt Lake City, UT 84111

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OFFICE OF PETITIONS

In re Application of :
Alden R. Eaton :
Application No. 11/247,088 : ON PETITION
Filed: October 12, 2005 :
Attorney Docket No. 2316.2.7 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed November 2, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a substitute specification, abstract and amendment, $100 for the examination fee, $250 for the search fee and a $65 surcharge for the late filing; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of 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

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FRASER MARTIN & MILLER LLC
132 WEST SECOND STREET
PERRYSBURG OH 43551

MAY 22 2006

In re Application of:
Semersky et al.
Serial No.: 11/247,107
Filed: October 11, 2005
Attorney Docket No.: **1-37994**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed December 08, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from one of the inventors, Dennis T. Sturgill, 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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SQUARE
211 NORTH ROBINSON
OKLAHOMA CITY, OK 73102

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JUL 10 2006

**OFFICE OF PETITIONS**

In re Application of :
Atkinson et al. : DECISION ON PETITION
Application No. 11/247,108 :
Filed: October 11, 2005 :
Title: CYLINDER BLOCK FOR :
INTEGRAL GAS COMPRESSOR AND :
INTERNAL COMBUSTION ENGINE :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f)) filed May 19, 2006.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a foreign or international application filed on February 10, 2006. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of April 12, 2007 accompanies this decision on petition.

The application will be examined in Technology Center AU 3748 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Petitions Attorney
Office of Petitions

Attachment: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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LAW OFFICES OF KARL HORMANN
PO BOX 381516
CAMBRIDGE MA 02238-1516

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| | | |
|---|---|---|
| In re Application of | : | |
| Wolfgang Hellhake | : | |
| Application No. 11/247,126 | : | ON PETITION |
| Filed: October 11, 2005 | : | |
| Attorney Docket No. 050712-US | : | |

This is a decision on the "Response to Notice of Abandonment under 37 CFR 1.53(f) or (g) and Petition for Revival under 37 CFR 1.8(b)", filed August 2, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.[1]

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 reply in response to the Notice to File Corrected Application Papers mailed October 31, 2005, which set an extendable period for reply of two (2) months. No reply having been timely received, the application became abandoned on January 1, 2006. A Notice of Abandonment was mailed on July 11, 2006.

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[1] The petition was labeled with application no. 10/247,126, but was matched with the proper file of 11/247,126.

Applicant has filed the instant petition, arguing that he timely filed a response via US Postal Service First Class Mail on November 4, 2005.

Correspondence is considered filed with the US Patent and Trademark Office on the date it is received. However, if a person mails correspondence via US Postal Service Express Mail, that correspondence will be considered filed with the PTO on the date it is deposited with the US Postal Service, provided the Express Mail mailing label was placed on the paper(s) that constitute the correspondence prior to the original mailing by Express Mail. See 37 CFR 1.10.

Correspondence will also be considered to have been timely filed if it was mailed with a Certificate of Mailing or Transmission **pursuant to 37 CFR 1.8.** For a Certificate of Mailing under 37 CFR 1.8 to be timely, the correspondence must: (1) be mailed prior to expiration of the set period of time; (2) must be addressed to the US Patent and Trademark Office with sufficient postage as first class mail; and (3) **include a certificate for each piece of correspondence, stating the date of deposit via first class mail.** See 37 CFR 1.8.

Here, while applicant supplied the Office with a copy of a transmittal letter entitled "Response to Notice to File Corrected Application Papers", alleged to have been deposited via First Class Mail on November 4, 2005, there is no indication that this paper or the drawings contained a Certificate of Mailing affixed thereon.

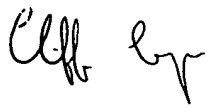
While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 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

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 OFFICES OF KARL HORMANN
PO BOX 381516
CAMBRIDGE MA 02238-1516

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MAR 2 6 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Wolfgang Hellhake | : | |
| Application No. 11/247,126 | : | ON PETITION |
| Filed: October 11, 2005 | : | |
| Attorney Docket No. 050712-US | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 12, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers mailed October 31, 2005, which set an extendable period for reply of two (2) months. No reply having been timely received, the application became abandoned on January 1, 2006. A Notice of Abandonment was mailed on July 11, 2006. Applicant filed a petition to withdraw the holding of abandonment on August 2, 2006. However, the petition was dismissed in a decision mailed on September 25, 2006.

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 replacement drawings.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

**COPY MAILED**

OCT 17 2007

**OFFICE OF PETITIONS**

In re Application of :
**DISANTO**, Robert :
Application No. 11/247,135 : DECISION ON PETITION
Filed: October 12, 2005 : TO WITHDRAW
Attorney Docket No. **DISA-0001UT1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 21, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to JAGTIANI + GUTTAG has been revoked by the applicant 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WATCHSTONE P+D, PLC**
**1250 CONNECTICUT AVE NW, SUITE 700**
**WASHINGTON DC 20036-2657**

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

Edward M. Livingston, PA
963 Trail Terrace Drive
Naples, Fl 34103

MAILED
NOV 06 2008

Inventor: Robert DiSanto
Application No. 11/247,135
Filed: October 12, 2005

: DECISION ON
: CONFLICTING § 3.73(b)'s
:

The instant application has been forwarded to the Office of Patent Legal Administration, pursuant to MPEP 324 (IX) for a decision on conflicting § 3.73(b) statements. This is a decision on who may control prosecution (and appoint a power of attorney and set forth the correspondence address to which the Office will sent its communications) in the instant application. The sole inventor has sequentially executed two assignments to different assignees, both of whom seek to control prosecution of the instant application.

The Decision results in retention of the current power of attorney by practitioners associated with customer 39820.

No further revocations of power of attorney will be permitted by assignee Greco/Anderson based on the § 3.71 (information) statements currently of record.

History of Power of Attorney

The instant application was filed on October 12, 2005 with a executed § 1.63 declaration naming Robert DiSanto as the sole inventor. The declaration contained a power of attorney to practitioners associated with customer number 22506 with a correspondence address to Sheldon H. Parker.

A Request For Withdrawal as Attorney or Agent and Change of Correspondence Address was submitted on December 21, 2006 for the practitioners associated with customer number 22506 (correspondence address was to Jagtiani + Guttag). On October 17, 2007 the withdrawal request was not approved as moot in view of a June 15, 2007 revocation by the applicant.

On June 15, 2007 a revocation of all previous powers of attorney, and new power of attorney with a change of correspondence address (in favor of Edward M. Livingston, PA) was submitted by facsimile transmission, signed by the sole inventor DiSanto (the new power of attorney and correspondence address being for practitioners associated with customer number 39820). [1]

On June 25, 2007, based on the June 15, 2007 paper, the Office mailed a Notice to the correspondence address of Jagtiani + Guttag (customer number 22506) that power of

[1] Additional copies of the paper were submitted on June 18, 2007.

attorney had been revoked, and mailed a Notice to the correspondence address of Edward M. Livingston, PA that power of attorney had been accepted (customer number 39820).

On October 3, 2007 [2] Stephen Parker submitted two papers, each paper including a revocation of power of attorney, new power of attorney, and change in correspondence address, in favor of practitioners associated with customer number 66458 (listing Sheldon and Stephen Parker). One paper was signed by Mr. Greco as an Assignee of Record and the second paper was signed by Mr. Anderson as an Assignee of Record. The papers were supported by two § 3.73(b) statements, one signed by Greco and one signed by Anderson.

On October 17, 2007 the Office mailed to: Edward M. Livingston a Notice revoking power of attorney to practitioners associated with customer number 39820, Watchstone P+D, PLC, and a Notice of acceptance of power of attorney for practitioners associated with customer number 66458.

On November 5, 2007 the instant paper entitled "CONTEST OF OWNERSHIP OF PATENT APPLICATION BASED ON CONFLICTING 37 CFR 3.73(b) STATEMENTS was executed by practitioner Livingston was filed along with a revocation of all previous powers with a new power of attorney and change of correspondence address (for practitioners associated with customer number 39820 supported by a § 3.73(b) statement. The Contest is supported by:

- a notice of recordation and an assignment of the instant application by the sole inventor to Stone Tome Music, Exhibit A,
- a notice of recordation and an assignment of the instant application by the sole inventor to Greco and Anderson, Exhibit B (the instant application apparently identified by title (the term "Sound" being absent in the Assignment's recitation of title but present in the instant application's title, and filing date),
- a re-recordation of an assignment and an assignment of the instant application by the sole inventor in favor of Stone Tone Music, Inc., Exhibit C,
- a revocation of power of attorney, and new power of attorney in favor of practitioners associated with customer number 39820, and a change in correspondence address (in favor of Edward M. Livingston, PA, signed by DiSanto as the President of Stone Tone Music, Inc., Exhibit D,
- a statement under § 3.73(b) signed by DiSanto as the President of Stone Tone Music, Inc., also Exhibit D,
- an affidavit by DiSanto, Exhibit E,
- a copy of an e-mail from Mr. Parker (containing a banner from Jagtiani + Guttag), Exhibit F, and
- an affidavit of counsel Flood, Exhibit G.[3]

The Office on November 16, 2007, based on the November 5, 2007 paper, mailed a Notice to Watchstone P+D, PLC. (customer No. 66458) advising that power of attorney had been revoked. The Office concomitantly mailed a Notice to Edward M. Livingston, PA (customer number 39820) advising that power of attorney had been accepted.

---

[2] A copy was submitted on October 4, 2007.

[3] On November 27, 2007 copies of the November 5, 2007 papers were submitted.

Power of attorney is currently with practitioners associated with customer number 39820 with a correspondence address to Edward M. Livingston, PA.

Status of Application

An February 26, 2008 amendment after non-final Office action has been submitted in reply to a January 25, 2008 Office action.

Decision on Ownership

The November 5, 2007 Contest of Ownership paper seeks to have the Office determine the proper assignee of the instant application to be Stone Tone Music in the face of conflicting assignments executed by the sole inventor to Stone Music, Inc., and also to Greco and Anderson. Two grounds are put forth to support Stone Tone Music as the proper assignee:

1. The assignment to Greco and Anderson is unenforceable for lack of valid consideration, and
2. The assignment to Greco and Anderson is unenforceable due to fraud in the inducement.

The Office simply acts in a ministerial capacity in recording the assignments to Stone Music, Inc., and to Greco and Anderson that had been submitted for recordation against the instant application. See 35 U.S.C. § 261 and 37 CFR 3.11. Therefore, the recording of the assignments pursuant to § 3.11 was not a determination by the Office of the validity of the assignments per se or the effect that assignment has on title to the instant application. What is sought in essence is to have the Office make a determination of ownership from the proffered documents and arguments, and settle any dispute as to the title of the application. The Office is not an expert in state contract law. Accordingly, it is well settled that the Office is not the appropriate forum for resolving a dispute concerning ownership of an application, and the Office will not permit itself to become embroiled in such ownership disputes. Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico, v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title as a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2d 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W.2d 400, 33 USPQ2d 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900). In fact, the Office has no authority to decide ownership issues. See Cedars-Sinai Medical Center V. Watkins, 11 F.3d. 1573, 1581 n. 10, 29 USPQ2d 1188, 1194 n. 10 (Fed. Cir. 1993), cert denied, 114 S. Ct. (1994).

Decision on Conflicting § 3.73(b) Statements

While the Office cannot determine the actual ownership of the instant application, the Office will determine who may have power of attorney as an ancillary matter to its obligation to conduct prosecution of the application. As set forth in MPEP 324 (IX):

> Where there are two or more conflicting 37 CFR 3.73(b) statements in an application ... the statement with the latest date of submission to the Office will

> normally control as to establishment of the assignee. If, however, the ownership established as controlling is contested on the record by another party who has submitted a conflicting 37 CFR statement, then the application ... shall be forwarded by the Office official in charge of the application ... to the Office of Patent Legal Administration for resolution of the ownership question. Generally, where there are two or more conflicting 37 CFR 3.73(b) statements in an application, **the ownership entity that filed that application** will be permitted to conduct the prosecution, and the other party that submitted a 37 CFR 3.73(b) statement to establish its ownership may wish to consider filing an application under 37 CFR 1.47. (emphasis added).

The instant application was filed with the sole inventor, DiSanto, providing a power of attorney to practitioner Parker associated with customer number 66458. Power of attorney was not established via an assignee. Therefore, the ownership entity filing the instant application was the sole inventor DiSanto on whose behalf practitioner Parker was acting. Accordingly, the sole inventor, currently acting as an Official of the earlier of two conflicting assignees attempting to control prosecution, Stone Tone Music, will be allowed to accord power of attorney on behalf of the practitioners associated with customer number 39820, which practitioners currently have power of attorney of record based on the last submitted power on November 5, 2007.

Processing

The instant Decision (after mailing in paper form) will be forwarded to the examiner for: (1) entry of the mailed Decision into the file record, and (2) a decision on the February 26, 2008 reply.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
(571) 272- 7707

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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**1000 EAGLE GATE TOWER**
**60 EAST SOUTH TEMPLE**
**SALT LAKE CITY UT 84111**

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AUG 2 8 2009

OFFICE OF PETITIONS

In re Application of :
Chung, Kuo Hua :
Application No. 11/247,140 : DECISION ON PETITION
Filed: October 12, 2005 :
Attorney Docket No. 17657.583a :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 31, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 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 an Amendment "A" and Response under 37 CFR 1.111, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Since the Power of Attorney was only recently given to the petitioner in the instant application, 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 entire 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)272-3206. All other inquiries should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2178 for appropriate action by the Examiner in the normal course of business on the reply received July 2, 2009.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/247,149 | 10/12/2005 | Jun-young Lee | 1349.1533 |

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

DATE MAILED: July 17, 2007

**DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)**
*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d) filed 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

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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kazuaki Muranaka | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7659348 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,157 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **932** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
P.O. Box 747
Falls Church, VA 22040-0747

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :

Kristofer Kjorling et al. :
Application No. 11/247,176 : DECISION ON PETITION
Filed: October 12, 2005 : TO WITHDRAW
Attorney Docket No. 4441-0109PUS2 : FROM RECORD
:

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 Terrell C. Birch on behalf of all attorneys of record who are associated with Customer No. 02292.

All attorneys/agents associated with the Customer No. 02292 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.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Kristofer Kjorling**
Lostigen 10, S-170 75
Solna, Sweden

cc: **Glenn Patent Group**
3475 Edison Way, Suite L
Menlo Park, CA 94025

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**MICHAEL A. OBLON**
**PERKINS COIE, LLP – PATENT PROCUREMENT**
**607 FOURTEENTH STREET NW**
**WASHINGTON, DC 20005-2011**

**MAILED**

JUN 0 8 2009

**OFFICE OF PETITIONS**

In re Application of :
**Grigore AXINTE, et al.** :
Application No. 11/247,192 : DECISION ON PETITION TO
Filed: October 12, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. **57387-8022.US00** :

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, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kenneth H. Ohriner on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed February 19, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **HYPERION INNOVATIONS, INC.**
**1750 112TH AVENUE NE, SUITE C-100**
**BELLEVUE, WA 98004-3700**

PTO/SB/81 (01-09)
Approved for use through 11/30/2011. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

| | |
|---|---|
| **Application Number** | |
| **Filing Date** | |
| **First Named Inventor** | |
| **Title** | |
| **Art Unit** | |
| **Examiner Name** | |
| **Attorney Docket Number** | |

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

*OR*

☐ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

*OR*

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

| Practitioner(s) Name | Registration Number |
|---|---|
| | |
| | |
| | |
| | |

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number.

*OR*

☐ The address associated with Customer Number:

*OR*

| | | | | | |
|---|---|---|---|---|---|
| ☐ Firm or Individual Name | | | | | |
| Address | | | | | |
| City | | State | | Zip | |
| Country | | | | | |
| Telephone | | Email | | | |

I am the:

☐ Applicant/Inventor.

*OR*

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
*Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on* _____.

**SIGNATURE of Applicant or Assignee of Record**

| | | | |
|---|---|---|---|
| Signature | | Date | |
| Name | | Telephone | |
| Title and Company | | | |

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

# Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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**Jagtiani + Guttag**
**10363-A Democracy Lane**
**Fairfax, VA 22030**

**COPY MAILED**

AUG 2 9 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| William S. Ogden | : | |
| Application No. 11/347,253 | : | DECISION ON PETITION |
| Filed: February 6, 2006 | : | TO WITHDRAW |
| Attorney Docket No. OGDE-0003-UT1 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 J. Guttag 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 William S. Ogden at the address indicated below.

There is an outstanding Office action mailed May 12, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **William S. Ogden**
**PO Box 125**
**Montreat, NC 28757**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/347,253 | 02/06/2006 | William S. Ogden | OGDE-0003-UT1 |

**CONFIRMATION NO. 4356**

22506
JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

**POWER OF ATTORNEY NOTICE**

*OC000000031829171*

Date Mailed: 08/29/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2008.

- 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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Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : William A. Linton | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591421 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,253 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/12/2005 | : 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.**
**1940 DUKE STREET**
**ALEXANDRIA VA 22314**

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FEB 28 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Misaki Uchiyama et al | : | |
| Application No. 11/247,269 | : | DECISION GRANTING PETITION |
| Filed: October 12, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 279514US3 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on February 7, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2852 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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Bengt Garbergs | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637622 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,298 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/247,336 | 10/11/2005 | Delphine Coppens | 55550US012 | 8863 |

7590 10/22/2007

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

| EXAMINER | |
|---|---|
| GOFF II, JOHN L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/22/2007 | ELECTRONIC |

# DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☒ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☒ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

4. ☒ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Xing-Jun Yang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598690 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,343 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **817** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David L. Kaplan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7635755 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/247,358 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 10/11/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.