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Date: 07/08/08

Patent No. : 7276728 B2
Ser. No. : 11/295,010
Inventor(s) : IECHI, HIROYUKI
Issued : 10/02/07
Title : **VERTICAL ORGANIC TRANSISTOR**
Docket No. : **2271/69454-A**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

**COOPER & DUNHAM, LLP**
**1185 AVENUE OF THE AMERICAS**
**NEW YORK NY 10036**

LMN

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30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,276,728 | : | ON PETITION |
| Issue Date: 10/02/2007 | : | |
| Application No. 11/295,010 | : | |
| Filed: 12/06/2005 | : | |
| Attorney Docket No. 2271/69454-A | : | |

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §3.81(b) and 37 C.F.R. §1.323" filed February 26, 2009.

Patentees request correction of the front page of the Letters Patent to include the omitted assignee's name via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee's name is GRANTED.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Renyan William Fei | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598648 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,020 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Igor Palley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7601416 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,042 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **206** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. |
|---|---|---|---|---|
| 11/295,066 | 12/06/2005 | Olav B. Bergheim | GLAUKO.1C4C4 | 7919 |

20995 7590 02/27/2008
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

| EXAMINER |
|---|
| HAND, MELANIE JO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3761 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/27/2008 | 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):

jcartee@kmob.com
eOAPilot@kmob.com

| Notice of Abandonment | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/295,066 | BERGHEIM ET AL. | |
| | Examiner | Art Unit | |
| | Hand, Melanie | 3761 | |

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

/ Krystal Paige /
Office of Data Management

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

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 05/17/2010

| | | |
|---|---|---|
| **Applicant** | : William C. Frick | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621680 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,093 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **578** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kuoching Lin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607117 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,107 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**DARBY & DARBY P.C.**
**P.O. BOX 770**
**CHURCH STREET STATION**
**NEW YORK, NY 10008-0770**

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|---|---|---|
| In re Application of | : | |
| **STAHURA,** Paul | : | |
| Application No. 11/295,122 | : | DECISION ON PETITION |
| Filed: December 05, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **20909/0205958-US0** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 01, 2008.

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

A review of the file record indicates that the power of attorney to Darby & Darby P.C. has been revoked by the applicant of the patent application on July 23, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GREENBERG TRAURIG, LLP (SV)**
**IP DOCKETING**
**2450 COLORADO AVENUE**
**SUITE 400E**
**SANTA MONICA CA 90404**

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**CARL M. NAPOLITANO, PH.D.**
**ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.**
**255 SOUTH ORANGE AVE., SUITE 1401**
**P.O. BOX 3791**
**ORLANDO FL 32802-3791**

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| | | |
|---|---|---|
| In re Application of | : | |
| **MORRIS,** Roger J. | : | |
| Application No. 11/295,136 | : | DECISION ON PETITION |
| Filed: December 06, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **38497.CIP** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 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 Carl Napolitano on behalf of all attorneys of record who are associated with customer No. 39313. All attorneys/agents associated with the Customer Number 39313 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.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CARL M. NAPOLITANO**
**ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, PA.**
**255 SOUTH ORANGE AVENUE, SUITE 1401**
**P.O. BOX 3791**
**ORLANDO FL 32802**

cc: **XL TECHGROUP, INC.**
**C/O DAVID SZOSTAK**
**1901 SOUTH HARBOR CITY BLVD., SUITE 300**
**MELBOURNE FL 32901**

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TAFT, STETTINIUS & HOLLISTER LLPSUITE 1800425 WALNUT STREETCINCINNATI OH 45202-3957

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of
Kejian Zhang et al.
Application No. 11/295,149
Filed: December 6, 2005
Attorney Docket No.: CHM08 GN014

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 4, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on March 31, 2009, for failure to pay the issue fee in response to the Notice of Allowance mailed December 30, 2008, and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed April 29, 2009.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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;
(2) the petition fee as set forth in § 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

> (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 paragraph (c ) of this section.

This petition lacks item (3) above.

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.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner argues that while the Notice of Allowability mailed December 30, 2008 was withdrawn and a second Notice of Allowability was re-mailed February 24, 2009, a second Notice of Allowance was not received and thus the failure to pay the Issue Fee by March 30, 2009 was unavoidable.

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

A review of the file confirms that a Notice of Allowance and Issue Fee Due as well as a Notice of Allowability was mailed on December 30, 2008 and that subsequent to a telephone conversation between the Examiner of Record and the Attorney of Record, the Examiner mailed a Supplemental Notice of Allowability on February 24, 2009. According to the petition, petitioners believed therefore that the Notice of Allowance was also being re-mailed but argue that a new Notice of Allowance was not received.

Petitioners are advised that if an Office communication is mailed and that in the absence of that communication being withdrawn by the USPTO, then by law a response is required within the time period set out in the Office communication received. The failure to file a response causes the application to become abandoned, even if that communication was sent in error or petitioners believed there to be an error. There is no evidence that a second Notice of Allowance was mailed or that a second Notice of Allowance was due. Based on the record, neither is there any evidence that the applicant should have had any expectation that the Notice of Allowance would be re-mailed and the period set for reply would be reset.

The argument and the showing presented is therefore insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a)

**ALTERNATIVE VENUE**

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay

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[3]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 require additional information where there is a question whether the delay was unintentional; and

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

cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $810.00 for a small entity and $1620.00 for a large entity and the $270.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(a), if petitioner chooses to file such.

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 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI OH 45202-3957

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JUL 17 2009
OFFICE OF PETITIONS

In re Application of

Zhang, et al.

Application No. 11/295,149

Filed: December 6, 2005

Attorney Docket No. **CHM08 GN014**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 25, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 30, 2008. The Notice set forth a three (3) month statutory period for reply. The fees were not received within the allowable period. Accordingly, this application became abandoned on March 31, 2009. A Notice of Abandonment was mailed April 29, 2009.

The fees were received on May 4, 2009.

Form PTOL-85B, filed May 4, 2009, is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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GE HEALTHCARE BIO-SCIENCES CORP.
PATENT DEPARTMENT
101 CARNEGIE CENTER
PRINCETON, NJ 08540

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Magnus Malmqvist | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582487 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,161 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **445** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**VISTA IP LAW GROUP LLP**
**2040 MAIN STREET, 9TH FLOOR**
**IRVINE, CA 92614**

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APR 28 2008

**OFFICE OF PETITIONS**

In re Application of
Rudolph V. Park, et al
Application No. 11/295,168
Filed: December 5, 2005
Attorney Docket No. 05-00650-02

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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop, has been revoked by the assignee of the patent application on August 31, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**EMPK & SHILOH, LLP**
**116 JOHN ST.**
**SUITE 1201**
**NEW YORK NY 10038**

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|---|---|---|
| In re Application of | : | |
| **SHANI,** Yonatan et al. | : | |
| Application No. 11/295,169 | : | DECISION ON PETITION |
| Filed: December 05, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **ELG-P-5766-US** | : | FROM RECORD |
| | : | |

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

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Arcangelo Ranieri Bruna | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616825 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,174 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

AUG 16 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

THE LAW OFFICES OF THOMAS L. ADAMS
120 EAGLE ROCK AVENUE
P.O. BOX 340
EAST HANOVER NJ 07936

In re Application of
Frederick A. BAIER, et al.
Application No. 11/295,182
Filed: December 7, 2005
For: **MONITOR AND METHOD FOR SENSING TEMPERATURE DIFFERENCES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed June 15, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

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**OFFICE OF PETITIONS**

In re Application of
Gilbert, et al.
Application No. 11/295,183
Filed: December 5, 2005
Atty. Dkt. No.: TGZ-038

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.10 filed June 9, 2006. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioners allege that the application was deposited in Express Mail Service on December 5, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. EV682325311US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 5, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on December 5, 2005.

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

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **December 5, 2005** and for issuance of a corrected filing receipt.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fulbright & Jaworski L.L.P.
Fulbright Tower
1301 McKinney, Suite 5100
Houston, TX 77010-3095

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OFFICE OF PETITIONS

In re Application of :
Fuqua et al. :
Application No. 11/295,188 :
Filing or 371(c) Date: 12/06/2005 :
Attorney Docket Number: :
HO-P03097US1 :

This is a decision on the Petition to the Director Under 37 CFR 1.181 to Accord original Filing Date, filed August 16, 2006. The petition is properly treated under 37 CFR 1.182.

Background

Application papers in the above-identified application were filed on December 6, 2005. On December 28, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, indicating December 6, 2005, as the filing date, but requiring an oath or declaration, and noting that Figures 5E-H appeared to have been omitted from the application.

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).

On April 28, 2006, Petitioner responded to the Notice submitting, *inter alia*, a declaration and substitute drawings. Petitioner asserted in the Reply that the drawings were not new matter.

On July 26, 2006, this Office mailed an Updated Filing Receipt wherein the filing date of the application was changed to June 15, 2006[1].

The Instant Petition

Petitioner files the instant Petition to correct the filing date of the application to December 6, 2005. Petitioner asserts that the filing of the Response to the Notice did not include a petition as required by options 1 and 2, and that, while petitioner acknowledges that an amendment as per option 3 was not filed, Applicant's submit an amendment to the drawings with the instant petition.

Analysis and conclusion

A review of the file reveals that the application as filed on December 6, 2005, was a complete application under 37 CFR 1.53(b) such that the application was correctly accorded the December 6, 2005 filing date. Applicant asserts that the drawings are not new matter. Applicant may add the omitted figures by way of amendment and without a petition. The issue of new matter is appropriately addressed by the Examiner. See MPEP 608.02.

Accordingly, the petition is **GRANTED.**

A refund of the petition fee has credited to deposit account 06-2375 as authorized in the petition.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to December 6, 2005, using the drawings filed on that date, and for the mailing of a Corrected Filing Receipt.

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

Derek L. Woods
Attorney
Office of Petitions

[1] The Office Patent Application Location and Monitoring ("PALM") system note that a "drawing preliminary amendment" was filed on 6-15-2006.

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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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/295,192 | 12/06/2005 | Jan Henrik Ter Meulen | 2578-7530US |

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

DATE MAILED: August 13, 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 6, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH TX 76134

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of :
Steven Butler :
Application No. 11/295,195 : DECISION ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. BUTL:001 :

This is a decision on the petition under 37 CFR 1.181(a), filed October 5, 2007, 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 accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.181(a)." No extensions of time are available under 37 CFR 1.136(a). *See* 37 CFR 1.181(f).

The application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 11, 2006, which required the submission of replacement drawings. The Notice set a period for reply of two (2) months from the mail date of the Notice. A Notice of Abandonment was mailed on September 6, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on July 10, 2006, which included replacement drawings and a check for $510 for a three (3) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated July 10, 2006, along with a copy of the cancelled check and a copy of the replacement drawings.

A review of the file record discloses that replacement drawings, along with a fee of $510 for a three (3) month extension of time, were received on July 13, 2006. The transmittal for the drawings bears a certificate of mailing date of July 10, 2006. It is noted that, at the time the reply was filed, a four (4) month extension of time fee was necessary to render the reply timely, and not a three (3) month extension of time fee. It is further

noted that the transmittal for the reply authorized charging any additional fees to a credit card. Unfortunately, however, the Office is unable to charge the additional $285 balance due for the four month extension of time since the information necessary to charge the credit card; *i.e.*, the expiration date, card holder name and zip code, was not supplied. Therefore, this application is properly abandoned for failure to timely reply to the Notice of January 11, 2006.

Petitioner may wish to consider filing a petition to revive under the provisions of 37 CFR 1.137. The filing of a petition under 37 CFR 1.137 cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unavoidable or unintentional delay cannot make a statement that the delay was unavoidable or 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, was unavoidable or unintentional. A statement that the delay was unavoidable or 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 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) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**IP LEGAL, TB4-8**
**6201 SOUTH FREEWAY**
**FORT WORTH TX 76134**

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|---|---|---|
| In re Application of | : | |
| Steven Butler | : | |
| Application No. 11/295,195 | : | DECISION ON PETITION |
| Filing Date: December 6, 2005 | : | |
| Attorney Docket No. BUTL:001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **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 January 11, 2006. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 12, 2006. The Notice of Abandonment was mailed September 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 new drawings (previously filed), (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application processing for appropriate action on the reply received.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**CHARLES LOUIS THOEMING**
**1390 WILLOW PASS ROAD**
**SUITE 1020**
**CONCORD, CA 94520**

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| | | |
|---|---|---|
| In re Application of | : | |
| Conrad M. Yu | : | |
| Application No. 11/295,233 | : | DECISION ON PETITION |
| Filed: December 5, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 22205 | : | 37 CFR 1.102(c)(2) |

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 30, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that

> could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The claimed invention is directed to a gas chromatographic device and method for analyzing vaporizable materials. While the petition and the disclosure state the claimed device and method are suitable for used with military and homeland security applications, none of the claims are specifically directed towards countering terrorist activities, e.g., countering bioterrorism. The claimed invention, rather, could be used for detection of any gas or vaporizable material. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

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

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

By FAX: (571) 273-8300

The $130.00 petition fee submitted is unnecessary and will be credited to petitioner's Credit Card.

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 2856 for action in its regular turn.

David Bucci
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

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

Mail Date: 05/06/2010

| | | |
|---|---|---|
| **Applicant** | : Glen Morehead | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613279 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,244 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

**COPY MAILED**

MAR 3 1 2008

**OFFICE OF PETITIONS**

In re Application of
Goldstein et al.
Application No.11/295,255
Filed: December 6, 2005
Attorney Docket Number: BEAS-01869US1
Title of Invention: Predictive Support System For Software

DECISION ON PETITIONS
UNDER 37 CFR 1.48 and 1.47

This is in response to the petitions filed under 37 CFR §§1.48 and 1.47 filed on January 3, 2008.

The petition filed under 37 CFR 1.48 is **DISMISSED**.

The petition filed under 37 CFR 1.47 is **DISMISSED** as inappropriate.

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," 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 December 6, 2005, with an executed oath or declaration on filing naming inventors Goldstein, Conley, Price, Chipman, and Brass as the co- inventors. Petitioner now seeks to amend the inventorship for the above-identified application to add inventor Terrence Joseph Clearkin.

**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.

The request under 37 CFR 1.48(a) lacks compliance with item (3). The declaration has not been re-executed by inventors Conley and Price. It is further noted that the 1.63 declaration does not include the city and zip code of inventor Clearkin. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. See MPEP 605.03. A newly executed declaration or a signed supplemental Application Data Sheet (ADS) is required to correct the deficiencies.

**Petition Under 37 CFR 1.47**

The petition filed under 37 CFR 1.47 is **dismissed as inappropriate**.

Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the reexecution of another oath or declaration by an inventor who executed the original declaration. In such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors, execute the oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that

supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached.

A petition filed under 37 CFR 1.183 and the $400.00 petition fee is required.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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14TH FLOOR
SAN FRANCISCO CA 94108

RECEIVED

DEC 19 2008

OFFICE OF PETITIONS

In re Application of
Goldstein et al.
Application No. 11/295,255
Filed: December 6, 2005
Attorney Docket No. ORACL-01869US1

DECISION ON PETITION

This is a decision on the renewed petitions filed July 16, 2008 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of Terence Joseph Clearkin , (2) a petition under 37 CFR 1.183 to accept this application notwithstanding the absence of the signature of the inventors Paul Conley and Benjamin Price.[1]

The petition filed under 37 CFR 1.48 is **GRANTED**.
The petition being treated under 37 CFR 1.183 is **GRANTED**.

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

In those situations where, as here, a previously signing inventor refuses to execute a supplemental oath or declaration under 37 CFR 1.64, waiver under 37 CFR 1.183 of the requirement for an additional signature would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where the inventors have executed no assignment, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought.

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

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

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

[1]Petitioner is reminded that a petition under 37 CFR 1.47 is not appropriate where an inventor has previously executed a declaration.

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

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

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

Pursuant to petitioner's request, deposit account 09-0441 will be charged the $130.00 processing fee

The request under 37 CFR 1.48(a) in conjunction with the grant under 37 CFR 1.183 has been met.

Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration. Since inventors Conley and Price signed the original petition, rule 47 status cannot be granted.

The treatment of petition as a request for waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.64 for reexecution of the supplemental oath or declaration by Conley and Price who signed the original oath or declaration, is granted.

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction.

A review of the evidence presented shows that although petitioner has made a sufficient showing to establish inventor Conley refuses to reexecute the declaration. Petitioner however has failed to make a sufficient showing for inventor Price. Nonetheless review of the record confirms the assignee has consented to the requested correction.

The Office is also in receipt of the supplemental application data sheet, which contains the complete address of inventor Clearkin. It should however be noted that the ADS states inventor Clearkin's citizenship is United States. However, the executed declaration shows Clearkin's citizenship is that of the United Kingdom. If the citizenship is that of the United States a newly executed declaration from inventor Clearkin is required. If the error is in the application data sheet a signed supplemental application data sheet is required.

In light of assignee's consent to correct the inventive entity the petition under 37 CFR 1.183 is **GRANTED**

A $400.00 petition fee is required for treatment under 37 CFR 1.183. The Office is in receipt of $200.00. Pursuant to petitioner's request, deposit account 06-1325 will be charged the $200.00 difference.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. As such, this petition is being treated pursuant to 37 CFR 1.34.

This application is being referred to the Art Unit 2432 for processing in due course.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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 |
|---|---|---|---|---|---|---|
| 11/295,255 | 12/06/2005 | 2432 | 3000 | ORACL-01869US1 | 47 | 5 |

**CONFIRMATION NO. 8071**

**CORRECTED FILING RECEIPT**

*OC000000033701440*

23910
FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Date Mailed: 12/18/2008

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)**

Ian M. Goldstein, San Francisco, CA;
Paul Conley, San Francisco, CA;
Ben Price, Telopea, AUSTRALIA;
Todd Chipman, San Jose, CA;
Robert Brass, Natick, MA;
Joseph Clearkin, San Jose, CA;

**Assignment For Published Patent Application**

BEA Systems, Inc., San Jose, CA

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/723,150 10/03/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/11/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/295,255**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Predictive support system for software

**Preliminary Class**

713

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

MAILED

JUN 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Douglas F. Barbian, et al. | : | |
| Application No. 11/295,256 | : | DECISION ON PETITION |
| Filed: December 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 249212041500 | : | FROM RECORD |
| | : | |

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 25, 2009.

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 May 19, 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: QUANTUM
C/O WAGNER BLECHER, LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

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Alexandria, VA 22313-1450
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Douglas P. Mueller
Hamre, Schumann, Mueller & Larson, P.C.
P.O. Box 2902-0902
Minneapolis, MN 55402-0902

MAILED

JAN 27 2006

Director's Office
Group 3700

In re Application of :
Takahashi, et al. :
Serial No. 11/295,265 : DECISION ON PETITION
Filed: December 06, 2005 : TO MAKE SPECIAL

For: COLOR PRICTURE TUBE AND METHOD FOR MANUFACTURING THE SAME

Applicant's petition, filed December 06, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700
571-272-2975

rt/ 10/19/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Charles A. Miller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614543 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,267 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **616** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Charles A. Miller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614543 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,267 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **616** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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JUL 06 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| George Rodney Nelson, Jr., et al. | : | |
| Application No. 11/295,270 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 2479.2082-001 | : | 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 January 22, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, PC has been revoked by the assignee of the patent application on April 27, 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: VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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United States Patent and Trademark Office
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Paper No.

JOHN KOZITKA
1611 PAULA STREET
DETROIT LAKES, MN 56501

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MAR 1 0 2006
OFFICE OF PETITIONS

In re Application of :
Callan et al. :
Application No. 11/164,756 :
Deposited: December 5, 2005 :
Atty Docket No. 018683-04-5061 :
:
:
:
:
In re Application of :
Callan et al. :
Application No. 11/295,276 :
Received: December 5, 2005 :
Atty Docket No. 18638-04-5061 :

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182," filed December 5, 2005. Applicants request that the application papers deposited by Express Mail with the Office on December 5, 2005 and currently assigned application No. 11/295,276 be treated as the original application papers in application No. 11/164,756 electronically filed on December 5, 2005, and that applicants not be required to pay additional filing fees for re-filing the application by Express Mail.

On December 5, 2005, petitioner electronically filed a patent application. By Acknowledgment Receipt at 15:04:19 EDT on December 5, 2005, the Office acknowledged receipt of the utility patent filing. Further, the utility patent filing was assigned application No. 11/164,756.

However, petitioner states that due to the complexity of including "tables" with the application, Appendix A and Appendix B were not transmitted to the Office. By deposit in Express Mail service on December 5, 2005, applicants re-submitted the

application as electronically filed, along with the Appendices, and the instant petition. This filing was assigned application No. 11/295,276.

**Relevant Statutes, Regulations and Rules**

35 U.S.C. 111(a)(4) provides, in reference to nonprovisional applications, that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

35 U.S.C. 21 Filing date and day for taking action.

> (a) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

37 C.F.R. § 1.182 provides that:

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

37 C.F.R. § 1.26(a):

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

MPEP 503 provides that:

> Applications which are entitled to a filing date and are filed, whether by regular mail, by "Express Mail" under 37 CFR 1.10, by hand-delivery, by the Office's Electronic Filing System (EFS), or otherwise, will not be returned to applicant even if requested. See 37 CFR 1.59. Accordingly, applicants must be careful not to file applications which are not intended to be filed, e.g., duplicates of applications already filed. Note that 37 CFR 1.26(a) provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. See MPEP § 607.02.

**DISCUSSION**

On December 5, 2005, applicants electronically filed a complete application under §1.53(b), including a specification, claims and 1 drawing sheet; along with authorization to charge all of the application filing fees to a Deposit Account. The electronically filed application papers were immediately assigned application No. 11/164,756, and on December 6, 2005, the filing fees were charged to the Deposit Account.

However, promptly after electronically filing the application, petitioner realized that Appendix A and Appendix B were not among the items present in the application. Petitioner admits that he did not transmit the Appendices to the Office with the application papers assigned application No. 11/164,756.

To cure this filing error, on December 5, 2005, petitioner re-filed the application by deposit with the United States Postal Service. Accompanying this filing was the instant petition. Petitioner requested that the Director treat the enclosed patent application as application No. 11/164,756 because filing fees of $2100 were authorized with the electronic filing, and that they should not be required to pay additional filing fees for re-filing the application merely because of a software glitch. However, upon receipt, the application papers were assigned application No. 11/295,276 and the filing fees were again charged.

It is undisputed that the application papers that constitute application No. 11/164,756 and the application papers that constitute application No. 11/295,276 were filed in the Office on December 5, 2005. Moreover, a review of the contents reveals that both applications included a specification, claims and at least one drawing. Accordingly, both applications are entitled to a filing date of December 5, 2005. As such, petitioner can expressly abandon the mistakenly filed application No. '756 and proceed with the prosecution of application No. '276 without losing the December 5, 2005 filing date.

However, petitioner already paid the filing fees totalling $2100 in the '756 application. This is petitioner's concern. Petitioner maintains that he should not be required to pay additional filing fees for filing the '276 application merely because of a software glitch. To accomplish this, petitioner requests that the '756 application be replaced with the '276 application.

It is well-established that a change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, will not entitle a party to a refund of such fee. See 37 C.F.R. § 1.26(a). Pursuant to this rule, applicants have repeatedly been advised not to file duplicate applications. See MPEP 503. Upon review of the applications, it reveals that an application fee transmittal was provided in both applications. Pursuant thereto, the application fees were charged in both applications. Accordingly, the relief requested by petitioner requires waiver of this rule.

Petitioner's arguments have been considered, but not found entirely persuasive. An error, such as when a party attempting to file an application makes an avoidable mistake when depositing the papers, will not be considered an extraordinary circumstance, warranting waiver of the regulations under § 1.183. Likewise, such a situation, does not merit suspension of the rules. In this instance, the record supports a conclusion that petitioner wants to withdraw the '756 application due to his own error. Petitioner neither argues nor sets forth evidence that the alleged software glitch is attributable to the actions of the Office. Petitioner admittedly erred in electronically filing the application without the appendices. In addition, a review of the

applications reveals that the drawings present in the '756 application are different from those present in the '276 application. The electronically filed application includes 1 drawing sheet containing figure 1. The application filed by mail includes 3 drawing sheets containing figures 1-3. Thus, it appears that applicants made a second error, which required the re-filing of the application to cure.

However, in this instance, prior to re-filing the application, petitioner contacted the Office for options on correcting the deficiency. It is undisputed that he was advised by more than one Office that the only sure way to retain the application with a filing date of December 5, 2005, and with the appendices considered a part of the original application disclosure was to re-file the application by way of deposit in the Express Mail service of the United States Postal Service on December 5, 2005. He was further warned that this might lead to the payment of duplicate fees. More importantly, he was advised that the electronically filed application could not be amended to include the Appendices.

This is incorrect. Revised 37 C.F.R. § 1.115, now provides, with respect to applications filed on or after September 21, 2004, that a preliminary amendment that is present on the filing date of an application is part of the original disclosure of the application. See MPEP 608. Accordingly, applicants could have corrected the deficiency by depositing, pursuant to 37 C.F.R. § 1.10, a preliminary amendment in compliance with § 1.121 on December 5, 2005. Such an option would not require repayment of the filing fees.

Moreover, when applicants re-filed the application papers, applicants expressly requested that the papers not be treated as a new application, that the papers be treated as application No. 11/164,756, and that the filing fees not again be charged.

Under the facts and circumstances of this case, it has been determined that the '276 papers will be treated as a substitute specification, and that the filing fees charged in the '276 application will be refunded.

This decision is limited to the facts of this case. Applicants are advised that in the future such relief may not be warranted where applicants file a duplicate (or substitute) application and duplicate fees.

**CONCLUSION**

The petition is **GRANTED** to the extent that the '276 papers will be treated as a substitute specification.

The petition fee set forth in § 1.17(f) has been charged to Deposit Account No. 50-0310, as authorized.

The application fees processed in the '276 application will be refunded as the filing fees were not authorized to have been paid in the '276 application.

Application No. 11/164,756 is undergoing pre-examination processing. The '276 papers will be copied to the '756 file for treatment as a substitute specification. For completeness of the records, the petition and this decision will be placed in the image file wrappers for both applications.

All future correspondence concerning this application should be directed to application No. 11/164,756, not 11/295,276.

Telephone inquiries concerning 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
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Alexandria, VA 22313-1450
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Paper No.

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Callan et al. :
Application No. 11/164,756 :
Deposited: December 5, 2005 :
Atty Docket No. 018683-04-5061:
:
:
:
:
In re Application of :
Callan et al. :
Application No. 11/295,276 :
Received: December 5, 2005 :
Atty Docket No. 18638-04-5061 :

**CORRECTED**
DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182," filed December 5, 2005. Applicants request that the application papers deposited by Express Mail with the Office on December 5, 2005 and currently assigned application No. 11/295,276 be treated as the original application papers in application No. 11/164,756 electronically filed on December 5, 2005, and that applicants not be required to pay additional filing fees for re-filing the application by Express Mail.

**This corrected decision is being mailed to correct the recipient address. Due to error on the part of the undersigned, the decision was mailed to (and returned from) an incorrect address.**

On December 5, 2005, petitioner electronically filed a patent application. By Acknowledgment Receipt at 15:04:19 EDT on December 5, 2005, the Office acknowledged receipt of the utility patent filing. Further, the utility patent filing was assigned application No. 11/164,756.

However, petitioner states that due to the complexity of including "tables" with the application, Appendix A and Appendix B were not transmitted to the Office. By deposit in Express Mail service on December 5, 2005, applicants re-submitted the application as electronically filed, along with the Appendices, and the instant petition. This filing was assigned application No. 11/295,276.

**Relevant Statutes, Regulations and Rules**

35 U.S.C. 111(a)(4) provides, in reference to nonprovisional applications, that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

35 U.S.C. 21 Filing date and day for taking action.

> (a) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

37 C.F.R. § 1.182 provides that:

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

37 C.F.R. § 1.26(a):

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the

> payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

MPEP 503 provides that:

> Applications which are entitled to a filing date and are filed, whether by regular mail, by "Express Mail" under 37 CFR 1.10, by hand-delivery, by the Office's Electronic Filing System (EFS), or otherwise, will not be returned to applicant even if requested. See 37 CFR 1.59. Accordingly, applicants must be careful not to file applications which are not intended to be filed, e.g., duplicates of applications already filed. Note that 37 CFR 1.26(a) provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. See MPEP § 607.02.

**DISCUSSION**

On December 5, 2005, applicants electronically filed a complete application under §1.53(b), including a specification, claims and 1 drawing sheet; along with authorization to charge all of the application filing fees to a Deposit Account. The electronically filed application papers were immediately assigned application No. 11/164,756, and on December 6, 2005, the filing fees were charged to the Deposit Account.

However, promptly after electronically filing the application, petitioner realized that Appendix A and Appendix B were not among the items present in the application. Petitioner admits that he did not transmit the Appendices to the Office with the application papers assigned application No. 11/164,756.

To cure this filing error, on December 5, 2005, petitioner re-filed the application by deposit with the United States Postal Service. Accompanying this filing was the instant petition. Petitioner requested that the Director treat the enclosed patent application as application No. 11/164,756 because filing fees of $2100 were authorized with the electronic filing, and that they should not be required to pay additional filing fees for re-

filing the application merely because of a software glitch. However, upon receipt, the application papers were assigned application No. 11/295,276 and the filing fees were again charged.

It is undisputed that the application papers that constitute application No. 11/164,756 and the application papers that constitute application No. 11/295,276 were filed in the Office on December 5, 2005. Moreover, a review of the contents reveals that both applications included a specification, claims and at least one drawing. Accordingly, both applications are entitled to a filing date of December 5, 2005. As such, petitioner can expressly abandon the mistakenly filed application No. '756 and proceed with the prosecution of application No. '276 without losing the December 5, 2005 filing date.

However, petitioner already paid the filing fees totalling $2100 in the '756 application. This is petitioner's concern. Petitioner maintains that he should not be required to pay additional filing fees for filing the '276 application merely because of a software glitch. To accomplish this, petitioner requests that the '756 application be replaced with the '276 application.

It is well-established that a change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, will not entitle a party to a refund of such fee. See 37 C.F.R. § 1.26(a). Pursuant to this rule, applicants have repeatedly been advised not to file duplicate applications. See MPEP 503. Upon review of the applications, it reveals that an application fee transmittal was provided in both applications. Pursuant thereto, the application fees were charged in both applications. Accordingly, the relief requested by petitioner requires waiver of this rule.

Petitioner's arguments have been considered, but not found entirely persuasive. An error, such as when a party attempting to file an application makes an avoidable mistake when depositing the papers, will not be considered an extraordinary circumstance, warranting waiver of the regulations under § 1.183. Likewise, such a situation, does not merit suspension of the rules. In this instance, the record supports a conclusion that petitioner wants to withdraw the '756 application due to his own error. Petitioner neither argues nor

sets forth evidence that the alleged software glitch is attributable to the actions of the Office. Petitioner admittedly erred in electronically filing the application without the appendices. In addition, a review of the applications reveals that the drawings present in the '756 application are different from those present in the '276 application. The electronically filed application includes 1 drawing sheet containing figure 1. The application filed by mail includes 3 drawing sheets containing figures 1-3. Thus, it appears that applicants made a second error, which required the re-filing of the application to cure.

However, in this instance, prior to re-filing the application, petitioner contacted the Office for options on correcting the deficiency. It is undisputed that he was advised by more than one Office that the only sure way to retain the application with a filing date of December 5, 2005, and with the appendices considered a part of the original application disclosure was to re-file the application by way of deposit in the Express Mail service of the United States Postal Service on December 5, 2005. He was further warned that this might lead to the payment of duplicate fees. More importantly, he was advised that the electronically filed application could not be amended to include the Appendices.

This is incorrect. Revised 37 C.F.R. § 1.115, now provides, with respect to applications filed on or after September 21, 2004, that a preliminary amendment that is present on the filing date of an application is part of the original disclosure of the application. See MPEP 608. Accordingly, applicants could have corrected the deficiency by depositing, pursuant to 37 C.F.R. § 1.10, a preliminary amendment in compliance with § 1.121 on December 5, 2005. Such an option would not require repayment of the filing fees.

Moreover, when applicants re-filed the application papers, applicants expressly requested that the papers not be treated as a new application, that the papers be treated as application No. 11/164,756, and that the filing fees not again be charged.

Under the facts and circumstances of this case, it has been determined that the '276 papers will be treated as a substitute specification, and that the filing fees charged in the '276 application will be refunded.

This decision is limited to the facts of this case. Applicants are advised that in the future such relief may not be warranted where applicants file a duplicate (or substitute) application and duplicate fees.

**CONCLUSION**

The petition is **GRANTED** to the extent that the '276 papers will be treated as a substitute specification.

The petition fee set forth in § 1.17(f) has been charged to Deposit Account No. 50-0310, as authorized.

The application fees processed in the '276 application will be refunded as the filing fees were not authorized to have been paid in the '276 application.

Application No. 11/164,756 is undergoing pre-examination processing. The '276 papers will be copied to the '756 file for treatment as a substitute specification. For completeness of the records, the petition and this decision will be placed in the image file wrappers for both applications.

All future correspondence concerning this application should be directed to application No. 11/164,756, not 11/295,276.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Michael L. Miller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7667054 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,294 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of
Laughlin, et al.
Application No. 11/295,311
Filed: December 5, 2005
Attorney Docket No. CWRU-P01-071 //
CWR-019705US ORD
For: NOVEL METHODS, COMPOSITIONS AND DEVICES FOR INDUCING NEOVASCULARIZATION

ON PETITION

This is a decision on the petition, filed April 29, 2010, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 29, 2008 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 30, 2009. A Notice of Abandonment was mailed on May 7, 2009.

Applicants have submitted an amendment and declaration under 37 CFR 1.132 in reply to the October 29, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 29, 2008 non-final Office action, and the $810.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

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.

After the mailing of this decision, the application will be returned to Technology Center AU 1632 for consideration of the reply filed on April 29, 2010.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: RICHARD A. SUTKUS
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND, OH 44114

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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JUL 2 2 2008

OFFICE OF PETITIONS

LAW OFFICE OF MARK J. SPOLYAR
38 FOUNTAIN STREET
SAN FRANCISCO CA 94114

In re Application of
Nancy Cam-Winget, et al.
Application No. 11/295,327
Filed: December 6, 2005
Attorney Docket No. 6571/53921

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 4, 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 December 4, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

The 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 October 30, 2008 accompanies this decision on petition.

It is noted that the person signing the instant petition is not an attorney or record. However, in accordance with 37 CFR 1.34, the signature of Mr. Mark James Sployar appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Spolyar desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr.Spolyar at the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to address of record.

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

This application is being referred to Technology Center Art Unit 2137 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: MARK JAMES SPOLYAR
2200 CESAR CHAVEZ SHTREET, SUITE 8
SAN FRANCISCO, CA 94124

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 |
|---|---|---|---|
| 11/295,327 | 12/06/2005 | Nancy Cam-Winget | 6571/53921 |

**CONFIRMATION NO. 9205**

30505
Law Office of Mark J. Spolyar
38 Fountain Street
San Francisco, CA 94114

**NONPUBLICATION RESCISSION LETTER**

*OC000000031069774*

Date Mailed: 07/21/2008

## 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 10/30/2008.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/sdbrinkley/

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

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United States Patent and Trademark Office
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**LAW OFFICE OF MARK J. SPOLYAR**
**38 FOUNTAIN STREET**
**SAN FRANCISCO, CA 94114**

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JUN 0 5 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cam-Winget et al. | : | |
| Application No. 11/295,334 | : | DECISION GRANTING PETITION |
| Filed: December 6, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 6571/53922 | : | |

This is a decision on the petition, filed April 2, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2132 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/295,334 | 12/06/2005 | Nancy Cam-Winget | 6571/53922 |

**CONFIRMATION NO. 9172**

30505
Law Office of Mark J. Spolyar
38 Fountain Street
San Francisco, CA 94114

**NONPUBLICATION RESCISSION LETTER**

*OC000000030306680*

Date Mailed: 06/04/2008

## 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 to be determined pending completion of Security Review..

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".

/lswalsh/

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

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OFFICE OF PETITIONS

**LSI CORPORATION C/O SUITER SWANTZ PC LLO**
**14301 FNB PARKWAY, SUITE 220**
**OMAHA NE 68154**

| | | |
|---|---|---|
| In re Application of | : | |
| Donald R. HUMLICEK | : | |
| Application No. 11/295,344 | : | DECISION ON PETITION |
| Filed: December 06, 2005 | : | |
| Attorney Docket No. 04-0889 | : | |

This is a decision on the petition, filed June 11, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the Final Rejection mailed November 28, 2009. Applicant has: (1) informed the Office of the previous mailing or transmission of correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy of the previously mailed or transmitted correspondence and certificate of mailing; (3) supplied a copy of express mail label date stamped by the U.S. Postal Service, and the U.S. Postal Service Signature of Recipient as proof of the delivery to the Office on the March 24, 2009; and (4) included a statement which attests on a personal knowledge basis or the satisfaction of the director to that previously timely mailing or transmission along with a copy of the sending unites report confirming transmission. Accordingly, the provisions of 37 CFR 1.8 (b) have been met.

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

This application is being referred to the Technology Center Art Unit 2114 for the appropriate action on the RCE with extension of time.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA, NY 12309

Mail Date: 06/24/2010

| | | |
|---|---|---|
| **Applicant** | : Samhita Dasgupta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652489 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,362 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**MALLOY & MALLOY, P.A.**
**2800 S.W. THIRD AVENUE**
**HISTORIC CORAL WAY**
**MIAMI, FL 33129**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Cancio, Humberto | : | |
| Application No. 11/295,377 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. 1.312-A.05 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 6, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a Declaration of Age signed by the applicant, which includes his date-of-birth. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 3736 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**BROOKS & CAMERON, PPLC**
**SUITE 500**
**1221 NICOLLET AVENUE**
**MINNEAPOLIS, MN 55403**

**MAILED**

MAR 16 2009

**OFFICE OF PETITIONS**

In re Application of :
**STEWART,** Daniel E. :
Application No. 11/295, 380 : DECISION ON PETITION
Filed: December 06, 2005 : TO WITHDRAW
Attorney Docket No. **IN167/00IN1** : FROM RECORD

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 02, 2009.

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

A review of the file record indicates that the power of attorney to Brooks & Cameron, PLLC has been revoked by the assignee of the patent application on February 02, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sergey Yuryevich Shumarayev | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639993 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,391 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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**MCDERMOTT WILL & EMERY LLP**
**18191 VON KARMAN AVE.**
**SUITE 500**
**IRVINE CA 92612-7108**

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OFFICE OF PETITIONS

In re Application of

**CUNNINGHAM,** Emmett Manuel et al.
Application No. 11/295,426
Filed: December 05, 2005
Attorney Docket No. **074692-0014**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2007.

The request is **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 files have been transferred back to client, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HAROLD HALMAN**
**3620 E. WIER AVENUE**
**PHOENIX, AZ 85040**

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OFFICE OF PETITIONS

PROF CHI-HSIANG YEH
DEPT OF ELECTRICAL AND COMPUTER ENG
QUEENS UNIVERSITY
KINGSTON ON K7L 3N6 CA CANADA

| | | |
|---|---|---|
| In re Application of<br>Chi-Hsiang Yeh<br>Application No. 11/295,428<br>Filed: December 8, 2005<br>Title: Method of Interference Management for Interference / Collision Prevention / Avoidance and Spatial Reuse Enhancement | :<br>:<br>:<br>:<br>: | CORRECTED DECISION ON PETITION |

This is a corrected decision on the letter filed May 15, 2006, which is being treated as a petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of November 29, 2005, not December 8, 2005.

The petition under 37 CFR 1.10 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 1.10". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

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.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant argues that the application was filed with the Office on November 29, 2005. In support thereof, applicant has included a copy of a USPS Tracking Summary page, showing that Tracking Number M133 3535 188 was received in Alexandria Virginia on November 29, 2005. However, the Office is not able to associate this tracking number with the application papers. That is why the Office requires the Express Mail mailing label number or Certificate of Mailing be placed directly on the correspondence being filed.

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
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PROF CHI-HSIANG YEH
DEPT OF ELECTRICAL AND COMPUTER ENG
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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chi-Hsiang Yeh | : | DECISION |
| Application No. 11/295,428 | : | ON PETITION |
| Filed: December 8, 2005 | : | |
| Title: Method of Interference | : | |
| Management for Interference / | : | |
| Collision Prevention / Avoidance | : | |
| and Spatial Reuse Enhancement | : | |

This is a decision on the letter filed January 30, 2007, which is being treated as a renewed petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of November 29, 2005, not December 8, 2005.

The petition under 37 CFR 1.10 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 1.10". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

Petitioner states that his application was not mailed via USPS, but via UPS. Accordingly, petitioner states that his application should be accorded the filing date of November 29, 2005, the date petitioner contends the application was received in the Patent and Trademark Office. Petitioner cites to 35 U.S.C. 111(a), which states:

> The filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office.

Petitioner is correct in his interpretation of 35 U.S.C. 111(a) - correspondence is considered filed with the US Patent and Trademark Office on the date it is received. However, according to Patent and Trademark Office records, application no. 11/295,428 was received on December 8, 2005. It is petitioner's burden to prove that the application was received on November 29, 2005. As the application was not mailed via USPS, petitioner can not avail himself of the benefits of 37 CFR 1.10. If petitioner mailed the application papers together with a self addressed, stamped postcard receipt, itemizing the application papers, and the postcard receipt contains a USPTO date stamp of November 29, 2005, petitioner can submit the postcard receipt as evidence that the application papers were received on November 29, 2005.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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| | | |
|---|---|---|
| In re Application of | : | |
| Michelotti et al. | : | |
| Application No. 11/295433 | : | DECISION ON APPLICATION |
| Filing or 371(c) Date: 12/07/2005 | : | FOR PATENT TERM ADJUSTMENT |
| Attorney Docket Number: | : | |
| 131817.02501 | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(b), filed July 15, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 739[1] days, not 408 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.

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.

[1] The Office notes a typographical error in the petition wherein Applicant asserts an entitlement "to eight hundred eighty six (739) days (408 + 331 = 739)." Application for PTA at p.2. Applicants request an adjustment of an additional 331 days pursuant to 37 CFR 1.703(b). Application for PTA at p.1.

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).

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 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 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.

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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.

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

CC: PEPPER HAMILTON LLP
3000 TWO LOGAN SQUARE
EIGHTEENTH AND ARCH STREETS
PHILADELPHIA, PA 19103-2799

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

Mail Date: 05/06/2010

| | | |
|---|---|---|
| **Applicant** | : Enrique Luis Michelotti | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7612200 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,433 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **739** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/28/2010

| | | |
|---|---|---|
| **Applicant** | : Jochen Linhart | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7591951 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,449 | : OF WYETH |
| **Filed** | : 12/07/2005 | : |
| | | : |

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Chi-Ping Yeh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7602971 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,455 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 05/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yasuo Taima | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649035 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,488 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **993** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Makoto Murakami | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7620132 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,513 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **796** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 16 2006
OFFICE OF PETITIONS

In re Application of :
Zimmerman, et al. :
Application No. 11/295,517 : ON PETITION
Filed: December 7, 2005 :
Attorney Docket No. 1857.2770001 :
For: SYSTEM AND METHOD FOR UNIFORMITY CORRECTION

This is a decision on the petition under 37 CFR 1.181, filed October 4, 2006, to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to respond to the January 13, 2006 Notice to File Corrected Application Papers, which set a two month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on March 14, 2006. A Notice of Abandonment was mailed on September 20, 2006.

Petitioners allege that the January 13, 2006 Notice was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

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

Petitioners have submitted a copy of the docket records where the requirement would have been entered had the January 13, 2006 Notice been received. It is noted that petitioners included docket records for the whole firm for March 13, 2006, as well as docket records corresponding to the application's former and current client matter numbers. In addition, practitioner referenced the records in the petition and stated that a review of the file jacket and docket records for the January 13, 2006 Notice was fruitless.

It is noted that the January 13, 2006 Notice was returned to the Office on January 23, 2006.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for the re-mailing of the January 13, 2006 Notice to File Corrected Application Papers with a new period set for reply.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yukifumi Yamada | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604296 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,545 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **624** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUL 20 2007

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Koji Hosono | : |
| Application No. 11/295,567 | : DECISION GRANTING PETITION |
| Filed: December 7, 2005 | : UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 283010US2 | : |

This is a decision on the petition, filed July 19, 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 19, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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.*

DATE 7-19-07 APPLICATION NUMBER 11/295567

DOC CODE IMDS DOC DATE 7-20-07

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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www.uspto.gov

Date : July 20, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 11/295,567**

Applicant(s) : Koji Hosono
Application No. : 11/295,567
Filed : December 7, 2005

The above-identified application has been assigned Patent No. 7,248,501 and an issue date of July 24, 2007.

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 July 24, 2007:

> **"All reference to Patent No. 7,248,501 to Koji Hosono of Japan for NONVOLATILE SEMICONDUCTOR MEMORY DEVICE AND A METHOD OF WORD LINES THEREOF appearing in the Official Gazette of July 24, 2007 should be deleted since no patent was granted."**

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Bradley Harris
Kimberly Terrell
Kay Pinkney
Betty Powell

Docket No. 283072US2S

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: Takafumi ITO

SERIAL NO: NEW APPLICATION GAU:

FILED: HEREWITH EXAMINER:

FOR: CARD-SHAPED MEMORY DEVICE INCORPORATING IC CARD FUNCTION

# INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:
Applicant(s) wish to disclose the following information.

**REFERENCES**

■ The applicant(s) wish to make of record the references listed on the attached form PTO-1449. Copies of the listed references are attached, where required, as are either statements of relevancy or any readily available English translations of pertinent portions of any non-English language references.

☐ A check or credit card payment form is attached in the amount required under 37 CFR §1.17(p).

**RELATED CASES**

■ Attached is a list of applicant's pending application(s), published application(s) or issued patent(s) which may be related to the present application. In accordance with the waiver of 37 CFR 1.98 dated September 21, 2004, copies of the cited pending applications are not provided. Cited published and/or issued patents, if any, are listed on the attached PTO form 1449.

☐ A check or credit card payment form is attached in the amount required under 37 CFR §1.17(p).

**CERTIFICATION**

☐ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.

☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned, having made reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this statement.

**DEPOSIT ACCOUNT**

■ Please charge any additional fees for the papers being filed herewith and for which no check or credit card payment is enclosed herewith, or credit any overpayment to deposit account number 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

C. Irvin McClelland

Marvin J. Spivak
Registration No. 24,913

C. Irvin McClelland
Registration Number 21,124

Customer Number
22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 05/03)

| | | |
|---|---|---|
| | Docket No.: 283072US2S | Serial No.: New Application |
| LIST OF RELATED CASES CITED BY APPLICANT UNDER 37 CFR 1.56 | Inventor: Takafumi ITO | |
| | Filing Date: Herewith | Group: |

**LIST OF RELATED CASES**

| Examiner Initial | Docket No. | Serial or Patent Number | Filing or Issue Date | Patent App. Publication No. | Inventor or Applicant |
|---|---|---|---|---|---|
| | 280439US2S | 11/260,406 | 10/28/05 | | Takafumi ITO |
| | PER CLIENT | 09/748,857 | 12/28/00 | 2001/0006902 A1 | Takafumi ITO |
| | PER CLIENT | 10/911,523 | 08/05/04 | 2005/0006484 A1 | Takafumi ITO |

Examiner

Date Considered

GJM/kcf

DOCKET NO.: 283072US2S

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF:
Takafumi ITO

SERIAL NO: NEW APPLICATION

FILED: HEREWITH

FOR: CARD-SHAPED MEMORY DEVICE INCORPORATING IC CARD FUNCTION

**STATEMENT OF RELEVANCY**

**References AO, AP and AQ on PTO Form-1449:**

These references are discussed in the specification. See page 2, lines 2 and 3.

| Form PTO 1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE | ATTY DOCKET NO. 283072US2S | SERIAL NO. NEW APPLICATION |
|---|---|---|
| LIST OF REFERENCES CITED BY APPLICANT | APPLICANT Takafumi ITO | |
| | FILING DATE HEREWITH | GROUP |

**U.S. PATENT DOCUMENTS**

| EXAMINER INITIAL | | DOCUMENT NUMBER | DATE | NAME | CLASS | SUB CLASS | FILING DATE IF APPROPRIATE |
|---|---|---|---|---|---|---|---|
| | AA | 6,573,567 B1 | 06/03/03 | Hirotaka NISHIZAWA, et al. | | | |
| | AB | 2001/0006902 A1 | 07/05/01 | Takafumi ITO | | | |
| | AC | 2005/0006484 A1 | 01/13/05 | Takafumi ITO | | | |
| | AD | | | | | | |
| | AE | | | | | | |
| | AF | | | | | | |
| | AG | | | | | | |
| | AH | | | | | | |
| | AI | | | | | | |
| | AJ | | | | | | |
| | AK | | | | | | |
| | AL | | | | | | |
| | AM | | | | | | |
| | AN | | | | | | |

**FOREIGN PATENT DOCUMENTS**

| | | DOCUMENT NUMBER | DATE | COUNTRY | TRANSLATION YES | TRANSLATION NO |
|---|---|---|---|---|---|---|
| | AO | 2001-160125 | 06/12/01 | Japan | | x |
| | AP | 2000-123141 | 04/28/00 | Japan | | x |
| | AQ | 11-204720 | 07/30/99 | Japan | | x |
| | AR | | | | | |
| | AS | | | | | |
| | AT | | | | | |
| | AU | | | | | |
| | AV | | | | | |

**OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)**

| | | |
|---|---|---|
| | AW | |
| | AX | |
| | AY | |
| | AZ | ☐ Additional References sheet(s) attached |

| Examiner | Date Considered |
|---|---|

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Bruce Murray Walker | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7617305 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,591 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **971** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Zongchuang Liang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7583702 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,597 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **824** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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2000 M Street, N.W.
Washington, DC 20036-3307

**COPY MAILED**

MAR 2 4 2009

**OFFICE OF PETITIONS**

In re Application of Pitt :
Application No. 11/295,603 : Decision on Petition
Filing Date: December 7, 2005 :
Attorney Docket No. 20-834 :

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

The petition is **granted**.

## Background

The Office mailed a final Office action on February 25, 2008.

A reply was filed April 28, 2008.

An Advisory Action was mailed July 3, 2008.

A second reply and payment for a three-month extension of time were filed August 22, 2008.

The undersigned has contacted the examiner and the examiner has verified the reply filed August 22, 2008, was not a proper reply to the Office action. Therefore, the application became abandoned on August 26, 2008.

The instant petition and a Request for Continued Examination were filed November 17, 2008.

## Discussion

The instant petition requests revival of the application.

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,

(2) the petition fee,

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Petitioner submitted a terminal disclaimer with the petition. A terminal disclaimer is unnecessary since the instant application is not a design application and was filed after June 8, 1995. Therefore, the terminal disclaimer is not accepted and the Office has scheduled a refund of the $140 fee.

Technology Center Art Unit 2612 will be informed of the instant decision and the application, including the Request for Continued Examination filed November 17, 2008, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Cleveland, OH 44115-1843

Mail Date: 05/04/2010

| | | |
|---|---|---|
| **Applicant** | : Mingli You | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613145 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/295,613 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Salil Banerjee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7599788 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,644 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **770** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. |
|---|---|---|---|---|
| 11/295,647 | 12/05/2005 | Zhigang He | CMCC:1356 | 9393 |

23379 7590 12/18/2009
RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

| EXAMINER |
|---|
| CRUZ, KATHRIEN ANN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1628 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/18/2009 | ELECTRONIC |

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

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

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

RICHARD@SCI-TECH.COM

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DEC 1 8 2009

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

| | |
|---|---|
| *In re* Application of: | : |
| He et al. | : PETITION DECISION |
| Serial No.: 11/295,647 | : |
| Filed: December 5, 2005 | : |
| Attorney Docket No.: **CMCC:1356** | |

This is in response to the petition filed by applicants under 37 CFR § 1.181(a) on December 14, 2009, to request designation of New Grounds of Rejection in the Examiner's Answer mailed December 9, 2009, pursuant to MPEP § 1207.03 (IV).

BACKGROUND

On September 3, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time this Office action was mailed, claims 7-16 were pending and rejected. In this non-final Office action, the examiner rejected claims 7-16 under 35 U.S.C. 103(a) as being unpatentable over Merril et al. of record and Beal et al. in view of Szabo et al. Claims 7-16 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 7-9 of copending Application No. 11/085,948.

On September 4, 2009, a Notice of Appeal was filed.

On September 4, 2009, applicants filed an Appeal Brief, appealing to the Board of Appeals from the examiner regarding the examiner's rejection of the claims.

On December 9, 2009, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner again rejected claims 7-16 under 35 U.S.C. 103(a) as being unpatentable over Merril et al. of record and Beal et al. in view of Szabo et al. Claims 7-16 were also again provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 7-9 of copending Application No. 11/085,948. The examiner also includes Banfield as "**evidence only**" in the Examiner's Answer.

In response thereto, appellants filed this petition under 37 CFR § 1.181(a) on December 14, 2009, requesting the designation of New Grounds of Rejection in the Examiner's Answer mailed December 9, 2009, pursuant to MPEP § 1207.03 (IV).

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on December 14, 2009, appellants argue that the Examiner's Answer mailed on December 9, 2009 contained a new ground of rejection. Specifically, appellants' argue the "Examiner seeks to introduce for the first time in this record in her Answer a new reference to support a new allegation supposedly supportive of all her pending rejections. In particular, the Examiner seeks to rely on a newly introduced Banfield (1997) reference to support her new allegation that nicotinamide had previously been administered in certain dosage ranges, and more particularly, that Banfield teaches that nicotinamide had been administered in the dosage form of 2 grams/day - supposedly in the dosage range required by our claims."

Examiner added a heretofore uncited document in Section (8), Evidence Relied Upon (page 3 of the Examiner's Answer mailed December 9, 2009). Appellants further note that the document was used to support the Examiner's arguments on page 11 of the Examiner's Answer mailed December 9, 2009.

It is Appellants position, in view of the newly cited art relied upon by the Examiner, that the present rejection constitutes a New Ground of Rejection pursuant to M.P.E.P. §1207.03(III):

> *A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).*

Appellants also argue that "MPEP 1207.03 does not purport to allow Examiners to subvert Due Process and deny applicants a full and fair opportunity to respond to new evidence, but only indicates the possibility of justifying a new reference in an Answer in the limited situation where the evidence is offered only to support a prior allegation as to what is "common knowledge":

> *Where a newly cited reference is added merely as evidence of the prior statement made by the examiner as to what is "well-known" in the art which was challenged*

*for the first time in the appeal brief, the citation of the reference in the examiner's answer would not ordinarily constitute a new ground of rejection within the meaning of 37 CFR 41.39(a)(2). See also MPEP § 2144.03.*

For what is meant by common knowledge, MPEP1207.03 cites MPEP § 2144.03:

> 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art
>
> In certain circumstances where appropriate, an examiner may take official notice of facts not in the record or rely on "common knowledge" in making a rejection, however such rejections should be judiciously applied.
>
> ...It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art [like specific dosages of a particular drug used anecdotally to treat a certain unusually rare disease] must always be supported by citation to some reference work recognized as standard in the pertinent art."

Appellants further argue "the new evidence is not relied upon to support any prior allegation - let alone one of common knowledge. Rather, a new allegation is offered contending prior use of particular dosages of a particular compound, supposedly supported by newly offered evidence in the form of an obscure, decade-old, foreign reference that describes some unusual case reports of treating an exceedingly rare immunological disease (bullous pemphigoid evolving into cicatricial pemphigoid) that has nothing to do with the subject of the invention (treating neurodegeneration as a result of multiple sclerosis)."

Appellants' points on the above issues are well-taken and persuasive. A detailed review of the rejection shows that the examiner did set forth a new reference. Consequently, appellants have not been provided a fair opportunity to carefully consider and respond to this new reference included in the Examiner's Answer.

It is thus decided that the Examiner's Answer of December 9, 2009 indeed introduced a new ground of rejection. A new ground of rejection is permissible in an Examiner's Answer; however, an Examiner's Answer containing a new ground of rejection must adhere to the provisions set forth in the MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer as identified herein may be permissible according to MPEP § 1207.03; however, the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 I for guidance).

Because the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not properly adhere to the requirements for setting forth a new ground of

rejection in the Examiner's Answer as set forth above, the Examiner's Answer of December 9, 2009 was improper and is hereby VACATED.

**DECISION**

The petition is **GRANTED.**

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 I for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection.

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.

Remy Yucel
Director, Technology Center 1600

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THE LAW OFFICE OF JAMES E. RULAND, PLC
P.O. BOX 392
FALLS CHURCH VA 22040

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FEB 1 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,399,231 B2 :
Issue Date: July 15, 2008 :
Application No. 11/295,668 :
Filed: December 7, 2005 :
Attorney Docket No.: MEISSNER-0002 :

DECISION ON PETITION

This is a decision on the Petition for Certificate of Correction under 35 U.S.C. §255 and 37 C.F.R. §1.323, filed December 22, 2008, for issuance of a Certificate of Correction that corrects the name of the assignee on the Title Page of the above-identified patent. The Petition has been treated as a petition under 37 CFR 3.81. A completed Certificate of Correction form accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected via issuance of a Certificate of Correction to correct the name of the assignee identified thereon from "EMUGE-Werk Richard Glimpel GmbH & Co. KG (Lauf, DE)" to:

> -- EMUGE-Werk Richard Glimpel GmbH & Co. KG Fabrik für Präzisionswerkzeuge (Lauf, DE)--.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied by a Certificate of Correction and the fees required by 37 CFR 3.81(b). As such, the requisite $100.00 fee (Fee Code 1811), as set forth under in 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, as the petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form PTO/SB/44 that accompanied the present petition.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 7,399,231.

Brian W. Brown
Petitions Examiner
Office of Petitions

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**BOZICEVIC, FIELD & FRANCIS LLP**
**1900 UNIVERSITY AVENUE, SUITE 200**
**EAST PALO ALTO CA 94303**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **CONSTANTZ**, et al. | : | |
| Application No. 11/295,677 | : | DECISION ON PETITION |
| Filed: December 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. CORA-017CON | : | FROM RECORD |
| | : | |

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 30, 2006.

The request is **APPROVED**.

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

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor 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: **BRENT R. CONSTANTZ**
**191 JEFFERSON AVENUE**
**MENLO PARK, CA 94025**

cc: **CARL J. EVENS**
**JOHNSON & JOHNSON**
**ONE JOHNSON & JOHNSON PLAZA**
**NEW BRUNSWICK, NJ 08933-7003**

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www.uspto.gov

**WILLIAM J. KOLEGRAFF**
**3119 TURNBERRY WAY**
**JAMUL CA 91935**

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AUG 2 8 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Goldberg et al. | : | |
| Application No. 11/295,681 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. AVA-05 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2878 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**WILLIAM J. KOLEGRAFF**
**3119 TURNBERRY WAY**
**JAMUL CA 91935**

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JUN 2 1 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Goldberg et al. | : | |
| Application No. 11/295,681 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. AVA-05 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 2878 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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SEP 2 4 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Gerhard Kunkel, et al. | : | |
| Application No. 11/295,691 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 543822020000 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 9, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named 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: GERHARD KUNKEL
GRUNE STRASSE 101
RADEBEUL 01445 GERMANY

cc: GERO G. MCCLELLAN
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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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 |
|---|---|---|---|
| 11/295,691 | 12/07/2005 | Gerhard Kunkel | 543822020000 |

**CONFIRMATION NO. 9088**

*OC000000025973577*

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/24/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2007.

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

---

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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**BOZICEVIC, FIELD & FRANCIS LLP**
**1900 UNIVERSITY AVENUE, SUITE 200**
**EAST PALO ALTO CA 94303**

**COPY MAILED**

APR 0 4 2007

**OFFICE OF PETITIONS**

In re Application of :
**Brent R. CONSTANTZ** :
Application No. 11/295,716 :
Filed: December 5, 2005 :
Attorney Docket No. CORA-003CON2 :

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 30, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CARL J. EVENS**
**JOHNSON & JOHNSON**
**ONE JOHNSON & JOHNSON PLAZA**
**NEW BRUNSWICK, NJ 08933-7003**

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SEP 20 2007

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MORRISON & FOERSTER LLP
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SUITE 400
MCLEAN, VA 22102

| | | |
|---|---|---|
| In re Application of | : | |
| Walter MISCHO | : | |
| Application No. 11/295,719 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 543822020800 | : | FROM RECORD |
| | : | |

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

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

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

There are no Office actions pending at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: WALTER MISCHO
BERGMANNSTR.52
80339 MUNCHEN
GERMANY

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD,
SUITE 1000
DALLAS, TX 75252

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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 |
|---|---|---|---|
| 11/295,719 | 12/07/2005 | Walter Mischo | 543822020800 |

**CONFIRMATION NO. 9271**

*OC000000025555904*

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/27/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2007.

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

---

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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DIGITAL OPTICS CORPORATION
C/O LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE, SUITE 500
FALLS CHURCH, VA 22042

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MAR 05 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| MORRIS et al | : | |
| Application No.: 11/295,720 | : | DECISION ON PETITION |
| Filing Date: December 7, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No.: 280/111 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2006, to revive the above-identified application.

The petition is **DISMISSED** without prejudice.

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 January 23, 2006, which set a two (2) month period for reply. An extension of time of four months under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on July 24, 2006, (July 23, 2006 being a Sunday).

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 April 14, 2006 is an improper composite declaration, consisting of two "Page 3"s. 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) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
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| | | |
|---|---|---|
| In re Application of | : | |
| MORRIS et al | : | |
| Application No.: 11/295,720 | : | DECISION ON PETITION |
| Filing Date: December 7, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No.: 280/111 | : | |

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 8, 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 January 23, 2006, which set a two (2) month period for reply. An extension of time of four months under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on July 24, 2006 (July 23, 2006 being a Sunday).

A decision mailed March 5, 2007 dismissed applicants' petition to revive under 37 CFR 1.137(b) filed November 8, 2006 because the required response, a declaration, was improper. The renewed petition contains a proper declaration.

Thus, the petition now 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 proper 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 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) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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MORRISON & FOERSTER LLP
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SUITE 400
MCLEAN, VA 22102

| | | |
|---|---|---|
| In re Application of | : | |
| Yi-Jen LO, et al | : | |
| Application No. 11/295,726 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 543822020900 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

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

There are no Office actions pending at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: YI-JEN LO
BAUTZNER STRASSE 115
01099 DRESDEN
GERMANY

cc: GERO G. MCCLELLAN,
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD,
SUITE 1500
HOUSTON, TX 77056

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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 |
|---|---|---|---|
| 11/295,726 | 12/07/2005 | Yi-Jen Lo | 543822020900 |

**CONFIRMATION NO. 9249**

*OC000000025735004*

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/10/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2007.

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

---

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JJGJR.: 02-06

Paper No: __

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APR 0 3 2006

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AKIN, GUMP,
STRAUSS, HAUER & FELD
1111 LOUISIANA STREET
44TH FLOOR
HOUSTON TX 77002

| | | |
|---|---|---|
| In re Application of | : | |
| Strauss | : | |
| Application No. 11/295,738 | : | DECISION ON PETITION |
| Filing Date: 6 December, 2005 | : | |
| Attorney Docket No. 053921.0001US | : | |

This is a decision on the petition filed on 6 March, 2006, that seeks a filing date of 6 December, 2005, for the instant application including Fig. 6, as described in the specification.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

## BACKGROUND

This nonprovisional application was deposited via U.S. Postal Service (USPS) Express Mail on 6 December, 2005.

On 17 January, 2006, the Office mailed a "Notice of Omitted Items," (the Notice) and indicated, *inter alia*, that, while a filing date had been accorded to the application, it appeared that Fig 6, as described in the specification, had been omitted from the application on deposit. OIPE indicated that Petitioner might: contend via petition that Fig 6, as described in the specification had been submitted and provide evidence thereof and a true copy of the drawing in question, or submit the drawing and accept the date of submission as the date of filing, or accept the application as it appeared to have been received on deposit. Moreover, as to the first alternative, Petitioner might

file a petition under 37 C.F.R. §1.182 (considered under 37 C.F.R. §1.53) as to the first contention. Finally, OIPE set a two- (2-) month period for reply;

Petitioner filed the instant petition on 6 March, 2006, with, *inter alia*, a copy of the date-stamped ("120605") receipt card (see: MPEP §503[1]), a copy of the 37 sheets of drawings, including Fig. 6, as described in the specification, as averred to have been filed, and a request for a filing date of 6 December, 2005, for the application, including Fig. 6, as described in the specification.

## Analysis

A search of the official file reveals that:

- on 6 December, 2005, Petitioner deposited the instant application via USPS Express Mail;
- the date-stamped receipt card evidences the following, in pertinent part:

---

[1] MPEP §503 provides in pertinent part:

**§503 Application Number and Filing Receipt**

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

**RETURN POSTCARD**

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

* * *

–Utility Patent Application Transmittal
–Fee Transmittal Form (in duplicate)
--Application Data Sheet (3 pages)
–Application for Patent (Specification - 20 pages) (Formal Drawings - 37 Sheets)

* * *

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including 37 sheets of drawings, including Fig. 6, as described in the specification, was deposited with the Office on 6 December, 2005, and the Fig. 6, as described in the specification, subsequently was misplaced in the Office.

Accordingly, the application, including 37 sheets of drawings, including Fig. 6, as described in the specification, is entitled to a filing date of 6 December, 2005.

The Notice mailed on 17 January, 2006, was sent in error and is hereby vacated to the extent that it stated that the application was filed omitting Fig. 6, as described in the specification.

## CONCLUSION

The petition is **granted** and the petition fee waived and was not charged.

**This application is released to OIPE for further processing with a filing date of 6 December, 2005, for the entire application with pages 1 - 20 of the specification (description, claims, abstract), and 37 sheets of drawings, as described in the specification, using:**

- **pages 1 - 20 of the specification (description, claims, abstract) and 36 sheets of drawings sheets 1/37 through and including 36/37 deposited on 6 December, 2005; and**

- **and 1 sheet of drawings Fig. 6, sheet 37/37, as described in the specification deposited on 6 March, 2006; and further**

**with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 6 December, 2005, and reflecting therein that 20 pages of specification (description, claims, abstract) and 37 sheets of drawings were present on filing.**

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 09 2009

OFFICE OF PETITIONS

HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY NY 12207

| | | |
|---|---|---|
| In re Application of | : | |
| Alexander Virvo | : | |
| Application No. 11/295,751 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. VLAS-0005 | : | |

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed September 23, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on December 24, 2009. The Office mailed a Notice of Abandonment on April 3, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3637 for consideration of the RCE, filed July 23, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Fenwick & West LLP**
**Silicon Valley Center**
**801 California Street**
**Mountain View, CA 94041**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Somasekhar Bhamidipati et al. | : | |
| Application No. 11/295,752 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 23927-10960 | : | FROM RECORD |
| | : | |

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 16, 2007.

The request is **APPROVED**.

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

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Somasekhar Bhamidipati**
**888 Foster City Blvd.**
**Apt. 202**
**Foster City, CA 94404**

cc: **Foley & Lardner LLP**
**Attn: Gerald Swiss**
**1530 Page Mill Road**
**Palo Alto, CA 94304**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/295,752 | 12/06/2005 | Somasekhar Bhamidipati | 23927-10960 |

**CONFIRMATION NO. 9483**

**POWER OF ATTORNEY NOTICE**

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

*OC000000027701873*

Date Mailed: 01/14/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/16/2007.

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

/tswilliams/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Rigel Pharmaceuticals, Inc.**
**c/o Foley & Lardner LLP**
**975 Page Mill Road**
**Palo Alto, CA 94304**

MAILED

JUN 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Somasekhar Bhamidipati, et al. | : | |
| Application No. 11/295,752 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 064311-2650 | : | FROM RECORD |
| | : | |

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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Gerald F. Swiss 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 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 Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rigel Pharmaceuticals, Inc.**
**1180 Veterans Boulevard**
**San Francisco, CA 94080**

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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 |
|---|---|---|---|
| 11/295,752 | 12/06/2005 | Somasekhar Bhamidipati | 064311-2650 |

**CONFIRMATION NO. 9483**

**POWER OF ATTORNEY NOTICE**

69588
RIGEL PHARMACEUTICALS INC.
C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

*OC000000036584486*

Date Mailed: 06/22/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2009.

- 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
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ATTN: Thomas B. Haverstock
HAVERSTOCK & OWENS LLP
162 N. Wolfe Road
Sunnyvale, CA 94086

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| | | |
|---|---|---|
| In re Application of | : | |
| Carl Schoeneberger et al. | : | |
| Application No. 11/295,753 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. NUASI-00109 | : | FROM RECORD |
| | : | |

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 25, 2006.

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

A review of the file record indicates that the power of attorney to Thomas B. Haverstock and the attorneys and/or agents associated with Haverstock & Owens LLP has been revoked by the assignee of the patent application on October 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **DALLAS OFFICE OF FULBRIGHT & JAWOEAKI L.L.P.**
2200 Ross Avenue
Suite 2800
Dallas, TX 75201-2784

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/295,753 | 12/06/2005 | Carl Schoeneberger | NUASI-00109 |

**CONFIRMATION NO. 9482**

*OC000000021861416*

*OC000000021861416*

ATTN: Thomas B. Haverstock
HAVERSTOCK & OWENS LLP
162 N. Wolfe Road
Sunnyvale, CA 94086

Date Mailed: 01/05/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

---

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Olivera J. Finn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655461 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,767 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **430** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**JOHN F. KLOS, ESQ.**
**FULBRIGHT & JAWORSKI LLP**
**2100 IDS CENTER**
**80 SOUTH EIGHTH STREET**
**MINNEAPOLOA, MN 55402**

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JUN 08 2010

OFFICE OF PETITIONS

In re Patent No. **7,704,243** :
Issue Date: April 27, 2010 :
Application No. 11/295,781 : NOTICE UNDER 37 CFR 1.28(C)
Filed: December 6, 2005 :
Attorney Docket No. **HO-P03096US0** :

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.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Allen E. White, registration number 55,727 appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. White desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. White, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **ALLEN E. WHITE**
**FULBRIGHT & JAWORSKI, LLP**
**FULBRIGHT TOWER**
**1301 MCKINNEY, SUITE 5100**
**HOUSTON, TX 77010-3095**

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**Fish & Richardson P.C.**
**225 Franklin Street**
**Boston, MA 02110**

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JUL 23 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Philip H.J. Lee, et al. | : | |
| Application No. 11/295,783 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 3013-0064 (05-01273-02) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2008.

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

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on August 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Advantedge Law Group, LLC**
**3301 N. University Ave.**
**Suite 200**
**Provo, UT 84604**

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**14TH FLOOR**
**ALBANY NY 12207**

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| | | |
|---|---|---|
| In re Application of | : | |
| Alexander Virvo, et al. | : | |
| Application No. 11/295,791 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. VLAS-0004 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 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 9, 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 July 10, 2008. The Notice of Abandonment was mailed November 6, 2008.

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

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

The application file is being referred to Technology Center AU 3637 for appropriate action on the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

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

| | | |
|---|---|---|
| In re Application of | : | |
| FRAHM, JEFFRY R. et al. | : | FEB 18 2009 |
| Application No.: 11/295,795 | : | DECISION ON |
| Filing or 371(c) Date: 12/07/05 | : | PETITION |
| Attorney Docket Number: 5046.3075.002 | : | |

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed February 11, 2009.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability which was mailed October 28, 2008.

In view of the foregoing, the holding of abandonment no drawings are requested, is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Larry Piercy | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623855 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,805 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **395** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

**DATE** : 8/10/09 **Paper No.:** —

**TO SPE OF** : ART UNIT 2617

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/295825 Patent No.: 7584748/B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D62-B**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
703-756-1591

**Thank You For Your Assistance**

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

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

**Comments:** _____

NICK CORSARO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Nick Corsaro — **SPE**

2617 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AT&T LEGAL DEPARTMENT – WK
ATTN: PATENT DOCKETING
ONE AT&T WAY, ROOM 2A-207
BEDMINSTER, NJ 07921

MAILED

MAR 16 2010

OFFICE OF PETITIONS

| | |
|---|---|
| In re Patent No. 7,184,748 | : DECISION GRANTING PETITION |
| Issue Date: February 27, 2007 | : UNDER 37 CFR 1.78(a)(3) AND |
| Application No. 11/295,825 | : REQUEST FOR CERTIFICATE OF |
| Filed: December 7, 2005 | : CORRECTION |
| Attorney Docket No. 20009.0005USC1 (BS00-129) | : |

This is a decision on the petition, filed July 31, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/749,399, filed December 28, 2000, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed December 7, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction. With regard to petitioner's inquiry regarding the fee due, the fee is due because the originally filed application papers did not include the benefit claim elsewhere in the application. See MPEP 201.11 V.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/295,825 | 12/07/2005 | 2617 | 1300 | 20009.0005USC1 (BS00-129) | 14 | 1 |

**CONFIRMATION NO. 1440**

**CORRECTED FILING RECEIPT**

45695
AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

*OC000000040623059*

Date Mailed: 03/16/2010

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)**

Judith C. Espejo, Snellville, GA;
Lance F. Casey, Suwanee, GA;
Carmen D. Andia, Atlanta, GA;
Judy D. Martin, Lawrenceville, GA;
Adrian C. Rudd, Powder Springs, GA;
Susan F. Meek, Norcross, GA;
Brenda L. Boyden, Smyrna, GA;

**Power of Attorney:**
Geoff Sutcliffe--36348
James Withers--40376
Matthew Mitchem--40731
Jennifer Medlin--41385
Jeramie Keys--42724

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/749,399 12/28/2000 PAT 7,653,377
which claims benefit of 60/216,698 07/07/2000

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/12/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/295,825**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**Title**

PRE-PAID WIRELESS INTERACTIVE VOICE RESPONSE SYSTEM WITH VARIABLE ANNOUNCEMENTS

**Preliminary Class**

455

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ishmael Bentley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618454 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,858 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **513** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**GREENBERG TRAURIG, LLP (SV2)**
**2450 COLORADO AVENUE, SUITE 400E**
**SANTA MONICA CA 90404**

MAILED

SEP 25 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **ARUMUGAM,** Murugan et al. | : | |
| Application No. 11/295,880 | : | DECISION ON PETITION |
| Filed: December 06, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **077614-200101/US** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 2009.

The request is **APPROVED**.

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

The request was signed by John P. Ward on behalf of all attorneys of record who are associated with customer No. 56188. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 27, 2009 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MURUGAN ARUMUGAM**
**3552 LANGDON COMMON**
**FREMONT, CA 94538**

cc: **KANTH KRISHNAN**
**44149 OWL PLACE**
**FREMONT, CA 94539-6253**

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CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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| | | |
|---|---|---|
| In re Application of | : | |
| Stephen Sherman | : | |
| Application No. 11/295,884 | : | DECISION |
| Filed: February 13, 2006 | : | ON PETITION |
| Attorney Docket No.: | : | |
| 050222 | : | |

This is a decision on the Petition Under 37 CFR 1.182, filed February 9, 2006[1], requesting the above-identified application be accorded as the filing date, the date that Figure 3, filed with the instant petition, are filed.

Applicant files the instant Petition and Figures 3, and requests the above-identified application be accorded as the filing date, the date that Figure 3, filed with the instant petition, is filed.

Accordingly, the petition is **granted**.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to February 9, 2006, including Figure 3 filed on February 13, 2006, and for the mailing of a corrected filing receipt.

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

Derek L. Woods
Attorney
Office of Petitions

[1] Although the petition and drawings were filed via facsimile on February 9, 2006, new applications **cannot** be transmitted by facsimile and are **not** entitled to the benefit of a certificate of transmission under 37 CFR 1.8. See, MPEP 511.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-17-08

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11295925 Patent No.: 7388100

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**

Valerie Jackson
**Certificates of Correction Branch**
**703-308-9390 ext. 114**

**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:** Kamal Saeed

Acting for /JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE Art Unit



PAGE 2/2 * RCVD AT 9/17/2008 11:34:22 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/24 * DNIS:2739043 * CSID:703 308 9759 * DURATION (mm-ss):00-40

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**JAMES W. WIEGAND**
**SUITE 700**
**60 STATE STREET**
**BOSTON MA 02109**

MAILED

MAR 25 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Letrinh Hoang | : | |
| Application No. 11/295,946 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. Hoang1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed July 10, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1614 for appropriate action by the Examiner in the normal course of business on the reply received February 23, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ryuichi Iwamura | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7596300 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,951 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **873** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS, MO 63102

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| | | |
|---|---|---|
| In re Application of | : | |
| Walter Garms et al | : | |
| Application No. 11/295,952 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 199693 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 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 February 28, 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 May 29, 2007.

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

This matter is being referred to Technology Center AU 2882 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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AUTOLIV ASP INC
3350 AIRPORT ROAD
OGDEN, UT 84405

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : David W. Schneider | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7568729 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,953 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **604** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

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**OFFICE OF PETITIONS**

In re Application of :
Walter I. Garms et al :
Application No. 11/295,954 :
Filed: December 7, 2005 :
Attorney Docket No. 186133 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 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 January 5, 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 April 6, 2007.

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 2882 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Eric T. Krischke
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740

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William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Masayuki Inoue | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606469 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,960 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **986** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

**DATE** : December 30, 2009

**TO SPE OF** : ART UNIT 1625
**SUBJECT** : Request for Certificate of Correction for Appl. No.:11/295961 /Patent no.756098

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

Magdalene Talley

**Certificates of Correction Branch**

**571-272-0423** _____

**Thank You For Your Assistance**

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

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

**Comments:** _____

/Janet L. Andres/ 1625

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P. O. BOX 1135
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| | | |
|---|---|---|
| In re Application of | : | |
| Atsushi Toda | : | |
| Application No. 11/295,962 | : | DECISION GRANTING PETITION |
| Filed: 6 December, 2005 | : | |
| Atty Dckt No. 112857-630 | : | |

This is a decision in reference to the petition filed on 6 March, 2006, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 6 December, 2005, rather than the currently-accorded filing date of 7 December, 2005.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail Service on 6 December, 2005. In support, petitioners have provided a copy of Express Mail Customer Label EV551759010US. (the same Express Mail number found on the itemized utility application transmittal sheet accompanying the original application papers located in the official file) showing a "date-in" of "12 6 5".

As such, the showing of record is that the correct date of deposit in Express Mail is 6 December, 2005.

In view of the above, the petition is granted. No fee is required.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 6 December, 2005, and for issuance of a corrected Filing Receipt.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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| | | |
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| In re Application of | : | |
| Kevin S. Wirick | : | |
| Application No. 11/295,967 | : | DECISION GRANTING PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. BCS03767 | : | |

This is a decision on the petition filed January 31, 2006, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the allegedly omitted item.

The petition is **granted**.

On December 7, 2005, the above-identified application was filed. However, on January 13, 2006, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of December 7, 2005, and advising applicant that page 1 of the specification appeared to have been omitted. The Notice set a non-extendable period for reply two-months from its mailing date.

In response, on January 31, 2006, applicant filed the present petition, a copy of page 1 of the specification, and an Office date-stamped postcard receipt acknowledging receipt of eleven pages of the specification, among other items.

Upon review of the record, page 1 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited December 7, 2005, included page 1 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including page 1 of the specification, was complete on filing and entitled to the presently accorded filing date of December 7, 2005, with page 1 of the specification as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

The application file is being directed to the Office of Initial Patent Examination for further processing with the presently accorded filing date of December 7, 2005, using the papers filed on that date.

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

| | | |
|---|---|---|
| In re Patent of Kang et al. | : | DECISION ON REQUEST |
| Patent No. 7,570,243 | : | FOR RECONSIDERATION OF |
| Issue Date: August 4, 2009 | : | PATENT TERM ADJUSTMENT |
| Application No. 11/295,975 | : | AND NOTICE OF INTENT TO |
| Filing Date: December 6, 2005 | : | ISSUE CERTIFICATE OF |
| Attorney Docket No. 12580-5199 | : | CORRECTION |

This is a decision on the petition filed on September 30, 2009, which is being treated as a petition under 37 C.F.R. § 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 ten (910) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ten (910) is **GRANTED to the extent indicated herein**.

Patentees assert the patent term adjustment should have been increased by 235 days due to delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

The petition states,

> The 3 year date ... is December 6, 2008. A patent issued on August 4, 2009. The difference between the 3 year date and the issue date is 235 days.

The number of days starting on December 7, 2008, and ending on August 4, 2009, is actually 240 days. In other words, B Delay is 240 days, not 235 days.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. In this case, A Delay and B Delay include the time period from December 7, 2008, to December 12, 2008. Therefore, the periods overlap by 6 days.

Since 6 days of the B Delay overlaps with 6 days of A Delay, the patent term adjustment should have been increased by 234 days due to B Delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to the deposit account identified in the 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 **nine hundred nine (909)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**UNITED STATES PATENT AND TRADEMARK OFFICE**

# CERTIFICATE OF CORRECTION

| | | | |
|---|---|---|---|
| PATENT NO. | : | 7,570,243 B2 | |
| ISSUE DATE | : | August 4, 2009 | **DRAFT** |
| INVENTOR(S) | : | Kang 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 675 days.

Delete the phrase "by 675 days" and insert - by 909 days--

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Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sin Ho Kang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7570243 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,975 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Nam Wook Cho | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595783 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,976 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1253** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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| In re Patent No. 7,595,783 | : | DECISION ON REQUEST FOR |
| Cho et al. | : | RECONSIDERATION OF |
| Issue Date: September 29, 2009 | : | PATENT TERM ADJUSTMENT |
| Application No. 11/295,976 | : | AND |
| Filed: December 6, 2005 | : | NOTICE OF INTENT TO ISSUE |
| Attorney Docket No. 10125-5213 | : | CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on November 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred sixty-six (966) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred sixty-six (966) days is **GRANTED**.

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.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred sixty-six (966) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,595,783 B2

DATED : Sept. 29, 2009 **DRAFT**

INVENTOR(S) : Cho 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 679 days

Delete the phrase "by 679 days" and insert – by 966 days--

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35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484-3000

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Thomas J. Foth | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7609873 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/295,979 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **993** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NEW YORK NY 10004

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| In re Application of | : | |
| Doronin, et al. | : | |
| Filed: December 6, 2005 | : | ON PETITION |
| Application No. 11/296,018 | : | |
| Dkt. No.: 13533/47201 | : | |

This is a decision on the "PETITION UNDER 37 C.F.R. 1.17(f)," filed March 16, 2006, requesting that the USPTO accord the above-identified application a filing date of December 6, 2005 with Figure 4G as part of the original disclosure.

The application was filed December 6, 2005. On January 17, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), stating, *inter alia*, that the application had been accorded a filing date of December 6, 2005 and advising applicants that Figure 4G described in the specification appeared to have been omitted.

On March 16, 2006, applicants submitted a response to the Notice, including the instant petition (and required fee) and a copy of Figure 4G.

In the instant petition, applicants stated:

> In a Notice to File Missing Parts of Nonprovisional Application, received in connection with the above identified patent application, it was noted that Figure 4G was omitted from the filed application. Applicants submit that the above identified application ("the '018 application") is a continuation-in-part application of Serial No. 11/240,948 ("the '948 application") filed September 29, 2005 which was incorporated by reference in its entirety into the '018 application. A copy of the Application Transmittal Letter indicating such incorporation by reference is submitted herewith. Since the '948 application contains the Figure 4G which is referred to in the '018 application, Applicants request that Figure 4G be incorporated by reference into the '018 application. A copy of Figure 4G is also submitted herewith. Applicants

> hereby petition that the above identified patent application be accorded a filing date of December 6, 2005.

*Petition of March 16, 2006, p. 1.*

Upon filing the application, applicants submitted a transmittal letter that contained an incorporation by reference statement of prior Application No. 11/240,948.

Pursuant to MPEP 201.06(c)(IV):

> An applicant may incorporate by reference the prior application by including, in the continuation or divisional applicant-as-filed, an explicit statement that such specifically enumerated prior application or applications are 'hereby incorporated by reference.' This statement must appear in the specification. *See* 37 CFR 1.57(b) and MPEP § 608.01(p). The inclusion of this incorporation by reference statement will permit an applicant to amend the continuation or divisional application to include subject matter from the prior application(s), **without the need for a petition** provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.
>
> For applications filed on or after September 21, 2004, a claim under 35 U.S.C. 120 and 37 CFR 1.78 for the benefit of a prior-filed Nonprovisional application or international application designating the U.S. that was present on the filing date of the continuation or divisional application is considered an incorporation by reference of the prior-filed application as to inadvertently omitted material, subject to the conditions and requirements of 37 CFR 1.57(a).

*(emphasis added)*. "If a continuation or divisional application as original filed on or after September 21, 2004 does not include an explicit incorporation by reference statement in the specification and is entitled to a filing date despite the inadvertent omission of a portion of the prior application(s), an applicant may be permitted to add the omitted material by way of an amendment under 37 CFR 1.57(a). MPEP 201.06(c)(IV)(B). "Such an amendment must be made within the time period set by the Office. *See* 37 CFR 1.57(a)(1). *Id.*

A review of the record indicates that the above-identified application as originally filed on December 6, 2005, which was

entitled to a filing date, did not include an explicit incorporation by reference statement in the specification.

As the above-identified application contains a benefit claim under 37 CFR 1.78 of a prior-filed application that was present on the filing date of the application, applicants may file an amendment in compliance with 37 CFR 1.57(a) to add the inadvertently omitted material to the above-identification application within TWO MONTHS of the date of this decision without the need for a petition. This **TWO MONTH** period of time is not extendable under 37 CFR 1.136(a) or (b).

As applicants did not submit Figure 4G upon filing the application, the Office correctly mailed the Notice. For this reason, the application cannot be accorded the filing date of December 6, 2005 with Figure 4G as part of the original disclosure. Accordingly, the petition is **DISMISSED**.

**OIPE is directed to process the application with a filing date of December 6, 2005 using only the 26 sheets of drawings filed on that date**. Figure 4G submitted with the petition on March 16, 2006 **will not** be entered at this time.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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**TWO EMBARCADERO CENTER**
**EIGHTH FLOOR**
**SAN FRANCISCO CA 94111-3834**

| | | |
|---|---|---|
| In re Application of | : | |
| Jin Su Park | : | |
| Application No. 11/296,021 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. 00939C-094900US | : | |

This is a decision on the petition, filed 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 July 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 2824 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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VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

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|---|---|---|
| **Applicant** | : Masaaki Higashitani | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7615448 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,022 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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3350 AIRPORT ROAD
OGDEN, UT 84405

Mail Date: 04/29/2010

| | | |
|---|---|---|
| **Applicant** | : Jeffrey D. Williams | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614654 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/296,031 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michael M. Sprague | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7571554 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,039 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 0 5 2007

OFFICE OF PETITIONS

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

In re Application of :
Seong-Gyun Kim :DECISION GRANTING FILING
Application No. 11/296,047 :DATE OF **DECEMBER 6, 2005**
Filed: December 6, 2005 :
Attorney Docket No. 12576-7022 :

This is a decision on the petition filed August 15, 2006, requesting that the above-identified application be accorded a filing date of December 6, 2005 rather than the presently accorded date of December 7, 2005.

Petitioner 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 December 6, 2005 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EV327170664US showing a Date In of December 6, 2005. Also, a copy of the USPS Track & Confirm shows the acceptance date of December 6, 2005 for Label No. EV327170664US. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on **December 6, 2005.**

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of **December 6, 2005, and for mailing of a corrected filing receipt.**

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

**QUALCOMM INCORPORATED**
**5775 MOREHOUSE DR.**
**SAN DIEGO, CA 92121**

**COPY MAILED**
DEC 20 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Khurram Zaka Malik | : | |
| Application No. 11/296,073 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. 050540 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 28, 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 timely obtained. Accordingly, the application became abandoned on June 29, 2007. A Notice of Abandonment was mailed December 3, 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 to the specification, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on December 2, 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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2817 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**ALLERGAN, INC.**
**2525 DUPONT DRIVE, T2-7H**
**IRVINE CA 92612-1599**

COPY MAILED

NOV 06 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Blumenfeld, Andrew M. | : | |
| Application No. 11/296,079 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 7211-003 | : | |

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1656 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Yupin Fong et al :
Application No. 11/296,087 :
Filed: December 6, 2005 :
Attorney Docket No. SAND-01081US1

ON PETITION

This is a decision on the petition, filed March 29, 2007 and supplemented on March 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 February 27, 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 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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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MAY 30 2007

OFFICE OF PETITIONS

VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

In re Application of :
Yupin Fong et al :
Application No. 11/296,087 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. SAND-01081US1

This is a decision on the petition, filed May 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 May 8, 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 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

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

| | | |
|---|---|---|
| In re Application of | : | |
| Peter Hofbauer | : | |
| Application No. 11/296,091 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. FEVG-10002/08 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2008. Accordingly, the date of abandonment of this application is March 3, 2009.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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 |
|---|---|---|---|---|---|---|---|
| 11/296,092 | 12/06/2005 | 1646 | 2000 | 10466/496 (P2548P1C19-C1) | 34 | 8 | 3 |

**CONFIRMATION NO. 1727**

**CORRECTED FILING RECEIPT**

*OC000000017993451*

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

Date Mailed: 02/06/2006

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

**Applicant(s)**

Kevin P. Baker, Darnestown, MD;
David Botstein, Belmont, CA;
Dan L. Eaton, San Rafael, CA;
Napoleone Ferrara, San Francisco, CA;
Ellen Filvaroff, San Francisco, CA;
Mary E. Gerritsen, San Mateo, CA;
Audrey Goddard, San Francisco, CA;
Paul J. Godowski, Burlingame, CA;
J. Christopher Grimaldi, San Francisco, CA;
Austin L. Gurney, Belmont, CA;
Kenneth J. Hillan, San Francisco, CA;
Ivar J. Kljavin, Pacifica, CA;
Mary A. Napier, Hillsborough, CA;
Margaret Ann Roy, San Francisco, CA;
Daniel Tumas, Orinda, CA;
William I. Wood, Hillsborough, CA;

**Assignment For Published Patent Application**

Genentech, Inc.

**Power of Attorney:** The patent practitioners associated with Customer Number **28442**.

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/944,896 08/31/2001
which is a CON of 09/866,028 05/25/2001 PAT 6,642,360
which is a CON of PCT/US99/28301 12/01/1999
which claims benefit of 60/113,296 12/22/1998

and is a CIP of 09/254,311 03/03/1999 ABN
which is a 371 of PCT/US98/25108 12/01/1998
which claims benefit of 60/069,702 12/16/1997

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/06/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/296,092**

**Projected Publication Date:** 05/18/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Secreted and transmembrane polypeptides and nucleic acids encoding the same

**Preliminary Class**

435

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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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).

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. 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 contains a valid OMB control number

# PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

## Application Information

| | | | | | |
|---|---|---|---|---|---|
| Application Number | 11296099 | Confirmation Number | 1696 | Filing Date | 2005-12-07 |
| Attorney Docket Number (optional) | A042 P01131-US1 | Art Unit | 3641 | Examiner | Stewart Knox |
| First Named Inventor | Richard E. Swan | | | | |
| Title of Invention | MODULAR INTEGRATED RAIL ASSEMBLY FOR FIREARMS | | | | |

**Attention: Office of Petitions**

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

**Name of Inventor who is 65 years of age, or older**

| Given Name | Middle Name | Family Name | Suffix |
|---|---|---|---|
| Richard | E. | Swan | |

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

| | | | |
|---|---|---|---|
| Signature | /Joshua A. Stockwell/ | Date (YYYY-MM-DD) | 2008-03-31 |
| Name | Joshua A. Stockwell | Registration Number | 54580 |

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. 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 contains a valid OMB control number

# Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Richard E. Swan

Application No. 11296099

Filed: December 7,2005

Attorney Docket No. A042 P01131-US1

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 31-MAR-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

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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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Gilles Elliot | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7578873 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,102 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **821** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Paper No.

EDWARD M. LIVINGSTON, PA
963 TRAIL TERRACE DRIVE
NAPLES FL 34103

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FEB 19 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John D. Boozer et al. | : | |
| Application No. 11/296,110 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | PURSUANT TO |
| Attorney Docket No.: 05-5846 | : | 37 C.F.R. § 1.137(B) |
| Title: CHUM DEVICE AND METHOD | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed on November 29, 2007, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 25, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 26, 2007. A notice of abandonment was mailed on November 21, 2007.

---

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

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

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the concurrently submitted amendment can be processed in due course.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mordechai Lev | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7584906 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,111 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David Drapela | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7627933 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,125 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1020** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PO BOX 7021
TROY MI 48007-7021

| | | |
|---|---|---|
| In re Application of | : | |
| Mankovitz | : | |
| Application No. 11/296,127 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MRJ-13002/03 | : | 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 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 1761 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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**4350 LA JOLLA VILLAGE DRIVE #700**
**7TH FLOOR**
**SAN DIEGO, CA 92122**

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| | | |
|---|---|---|
| In re Application of | : | |
| Roman et al. | : | DECISION ON PETITION |
| Application No. 11/296,132 | : | TO WITHDRAW |
| Filed: December 6, 2005 | : | FROM RECORD |
| Attorney Docket No. 026282-00110US | : | |

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 11, 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 Heller Ehrman LLP, has been revoked by the assignee of the patent application on May 23, 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: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAILED
JAN 19 2007

Technology Center 2100

| | | |
|---|---|---|
| In re Application of: SAGUES, et al. | ) | |
| Application No. 11/296,134 | ) | *SUA SPONTE* |
| Attorney Docket No. 009172-0318469 | ) | WITHDRAWAL OF HOLDING OF |
| Filed: December 6, 2005 | ) | ABANDONMENT |
| For: SYSTEM FOR PROGRAMMED | ) | |
| CONTROL OF SIGNAL INPUT AND | ) | |
| OUTPUT TO AND FROM CABLE | | |
| CONDUCTORS | | |

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on January 12, 2007. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Non-Final Office communication (mailed on July 3, 2006). A timely filed amendment and response with a three-month extension of time (37 CFR § 1.136(a)) was filed on January 8, 2007 bearing a certificate of mailing under 37 CFR § 1.8(a) on January 3, 2007. Accordingly, the amendment/response was timely filed.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and restore the instant application to pending status. The application will then be forwarded to the Examiner of record to consider the response filed January 3, 2007 and for prompt action on the merits.

Inquiries to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Brian L. Johnson
Workgroup 2110 QAS
Technology Center 2100
Computer Architecture, Software, and Information Security

DATE 2/28/08

APPLICATION NUMBER 11296135

DOC CODE PetDecTC

DOC DATE

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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

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| | | |
|---|---|---|
| In re Application of | : | |
| Huddleston, Samuel M. | : | |
| Application No. 11/296,135 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 027047-000200US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center 3643 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

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FEB 12 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Stewart A. Kelly, et al. | : | |
| Application No. 11/296,156 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 69858.010601 | : | FROM RECORD |
| | : | |

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 17, 2008.

The request is **APPROVED**.

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

The request was signed by Barry J. Schindler on behalf of all attorneys of record who are associated with customer No. 32361. All attorneys/agents associated with the Customer Number 32361 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

There is an outstanding Office action mailed January 23, 2009 that requires a reply from the applicant.

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

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

cc: STEWART A. KELLY
452 SCENIC CIRCLE
CUPERTINO, CA 95014

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/296,156 | 12/06/2005 | Stewart A. Kelly | 69858.010601 |

**CONFIRMATION NO. 2548**

**POWER OF ATTORNEY NOTICE**

32361
GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

*OC000000034430588*

Date Mailed: 02/06/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/17/2008.

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

/amwise/

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

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**SUITE 500 NORTH**
**LAS VEGAS, NV 89109**

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| | | |
|---|---|---|
| In re Application of | : | |
| Masao Aida | : | DECISION ON PETITION |
| Application No. 11/296,161 | : | TO MAKE SPECIAL UNDER |
| Filed: December 7, 2005 | : | 37 CFR 1.102(c)(1) |
| Attorney Docket No. 90543.000002 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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 petition includes a copy of a birth certificate and a declaration by MasaoAida attesting that he is over 65 years of age. Accordingly, the above-identifiedapplication has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center AU 3711 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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**OFFICE OF PETITIONS**

In re Application of
Michael Richard Durling et al.
Application No. 11/296,167
Filed: December 7, 2005
Attorney Docket No. 18496

: DECISION DISMISSING PETITION

This is a decision on the "supplemental petition" filed January 13, 2006 under 37 CFR 1.10(e), requesting that the above-identified application be accorded a filing date of October 27, 2005, instead of the presently accorded filing date of December 7, 2005.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 27, 2005, pursuant to the requirements of 37 CFR 1.10.

Relief sought under 37 CFR 1.10(e) is appropriate when petitioners claim that an application has been filed but that the USPTO has lost the application and requires that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Out the outset, petitioners should be advised that while the instant petition points to a petition having been filed December 20, 2005, to which the instant petition is supplemental to, no such petition purportedly filed December 20, 2005 is of record.

If in fact such a petition was filed, we would assume that petitioner's proof, as required under 37 CFR 1.10(e), must have accompanied that petition. The instant petition only includes a copy of a postcard receipt dated October 27, 2005 but with a USPTO date stamp of December 7, 2005. Unless and until a petition with the requisite proof of filing on any date other than December 7, 2005 is provided, this application can only be accorded the date of receipt.

We will suggest though that petitioner review his files for application no. 11/300,986 filed December 15, 2006 as it appears from USPTO records that it has an identical title of invention, inventors and similar other information provided on filing.

Accordingly, the petition is **DISMISSED**.

The application has been accorded a filing date of December 7, 2005 and no evidence has been submitted to accord any other filing date other than December 7, 2005. This matter is therefore being referred to Technology Center 3671 to be examined in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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GARDEN CITY NY 11530

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In re Application of
Michael Richard Durling et al.
Application No. 11/296,167
Filed: October 27, 2005
Attorney Docket No.: 18496

In re Application of
Michael Richard Durling et al.
Application No. 11/300,986
Filed: December 15, 2005
Attorney Docket No.: 18496

ON PETITION

This is a response to the renewed petition filed March 23, 2006, under 37 CFR 1.10(e) to accord application no. 11/296,167 a filing date of October 27, 2005 instead of December 7, 2005, the filing date accorded.

The petition is **DISMISSED**.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 27, 2005, pursuant to the requirements of 37 CFR 1.10.

Relief sought under 37 CFR 1.10(e) is appropriate when petitioners claim that an application has been filed but that the USPTO has lost the application and requires that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the

"Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

A petition filed January 13, 2006, supplementing a petition previously filed December 20, 2005, was dismissed in a decision mailed February 21, 2006 because the proof needed to show 1) that a filing date petition had been filed December 20, 2005 was not of record, and 2) the requirements under 37 CFR 1.10(e) which we assumed was a part of the petition purportedly filed December 20, 2005, had not been met.

The instant petition renews the argument that a petition under 37 CFR 1.10(e) had been filed December 20, 2005 and that an application was filed by express mail on October 27, 2005. A copy of the petition under 37 CFR 1.10(e) filed December 20, 2005 is included, bears a certificate of mail dated December 20, 2005 and therefore serves as proof of filing under 37 CFR 1.8.

As for the claim under 37 CFR 1.10(e), the petition lacks requirement number 3.

Petitioners have not provided a copy of the Express Mail label to show that the application was filed by Express Mail on October 27, 2005 and in the absence of the Express Mail, petitioners are relying on a certificate of express mail and corroborating evidence that came into being within one business day of the deposit as Express Mail, pursuant to 37 CFR 1.10(d)(3).

At the outset, petitioners should note that there is no requirement under 37 CFR 1.10 for a certificate of mailing by "Express Mail".[1]

While petitioner has not presented an Express Mail label petitioner provides other evidence in the form of a postcard receipt that bears the express mail number but is not

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[1] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

date-stamped by the USPTO, copies of checks dated October 27, 2005 and made out to the Commissioner of Patents, which petitioner notes have not been cashed, statements from the Attorney of Record regarding the mailing of the application on October 27, 2005, statements from others with firsthand knowledge of the mailing of the application on October 27, 2005 including the docketing department manager, using mail logs, to corroborate their claim that the application was filed using the USPS Express Mail service on October 27, 2005 and thus entitled to the date of deposit in Express Mail service as the filing date pursuant to 37 CFR 1.10.

The evidence presented has been carefully considered, but is not persuasive of petitioner's entitlement to a filing date of October 27, 2005. In the absence of the Express Mail Label, petitioner has not submitted a copy of any U.S. Postal Service (USPS) record showing that the above-identified Express Mail package was actually mailed on October 27, 2005 or any other date. Compare Honigsbaum v. Lehman, 37 USPQ2d 1799 (D.D.C. 1995). Obviously, no benefits are available under 37 CFR 1.10, unless the paper or fee is actually mailed by Express Mail. Petitioners' mail logs or statements do not have the same probative value as an Express Mail receipt. Compare Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1781 (D.D.C. 1994) (affidavit by individual stating that application was deposited in the mail on a particular date is hardly as probative of the actual date of mailing as an Express Mail receipt). While a conclusion might be drawn, based on petitioner's records that the original application papers were deposited in Express Mail on October 27, 2005, a contrary conclusion could also be drawn based on the fact that no Express Mail receipt has been presented or on the fact that the application papers have never appeared in the files of the Office. It is petitioner's burden to supply sufficient evidence to support the allegations made in the petition. In this case, petitioner has not yet met that burden.

Furthermore, pursuant to 37 CFR 1.10(e)(3), petitioners may rely upon 37 CFR 1.0(d)(3) if and only if "the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In this instance, petitioners are misapplying the regulation as if 37 CFR 1.10(d)(3) is an alternative to meeting the requirements of 37 CFR 1.10(e)(3) for supplying an express mail label.

Finally, this application was accorded a filing date of December 7, 2005 but because petitioner wasn't aware that an application serial number and date had been accorded, a duplicate identical application was filed and accorded an application serial number of 11/300,986 with a filing date of December 15, 2005. Since the error has been noted, and the files of both 11/296,167 and 11/300,986 have been compared, the papers present in the file of Application No. 11/300,986 will be merged into the file of Application No. 11/296,167. Unfortunately, however, since the error was not caused by

the USPTO, the filing fees paid with the application filed on December 15, 2005 will be borne by the petitioner and will not be refunded.

This matter will be referred to the Office of Initial Patent Examination for merging the file of application No. 11/300,986 into the file of application No. 11/296,167. Application No. 11/300,986 will no longer be an active serial number. All future correspondence concerning this application should be directed to application No. 11/296,167.

Any request for reconsideration on the filing date issue should be filed within **TWO MONTHS** of the date of this decision to be considered timely. See 37 CFR 1.181(f).

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Iwasaki, et al. :
Application No. 11/296,179 : ON APPLICATION FOR
Filed: December 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 201762.000042

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b) filed August 13, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least five hundred seventy-three (573) days, not three hundred twenty-four (324) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Suite 300
AKRON, OH 44311-1076

Mail Date: 04/20/2010

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| **Applicant** | : Iwao Iwasaki | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7628839 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,179 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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Todd A. Lorenz
Dorsey & Whitney, LLP
Intellectual Property Department
555 California Street, Suite 1000
San Francisco, CA 94104-1513

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John K. Jackson, et. al. | : | |
| Application No. 11/296,184 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. 33712/US/3 | : | |

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

The application became abandoned for failure to respond to the non-final Office action mailed August 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1711, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

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| In re Application of | : | |
| Kuno Lenz | : | |
| Application No. 11/296,186 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 852163.429 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed on January 4, 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 October 2, 2007. A Notice of Abandonment was mailed on January 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $6 for two (2) advance order soft copies filed on January 4, 2008.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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**VAN PELT,YI & JAMES LLP**
**10050 N. FOOTHILL BLVD #200**
**CUPERTINO CA 95014**

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OFFICE OF PETITIONS

In re Application of :
Jack Choquette et al :
Application No. 11/296,195 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. AZULP027 :

This is a decision on the petition under 37 CFR 1.137(a), filed June 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 final rejection mailed October 10, 2008.

Petitioner asserts unavoidable delay in that the final rejection was never received.

A review of the written record indicates no irregularity in the mailing of the final rejection 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. However, petitioner has provided a showing to establish the failure to receive the Office action and a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center AU 2183 for review of the reply received June 2, 2009.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Suite 300
AKRON, OH 44311-1076

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OFFICE OF PETITIONS

In re Application of :
Iwasaki, et al. :
Application No. 11/296,197 : ON APPLICATION FOR
Filed: December 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 201762.00004

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b) filed August 13, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least five hundred forty-seven (547) days, not two hundred ninety-eight (298) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office 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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Iwao Iwasaki | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632335 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,197 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **671** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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In re Application of :
Iwaski, et al. :
Application No. 11/296,198 : ON APPLICATION FOR
Filed: December 7, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 201762.00001 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705" filed August 13, 2009. Applicants request that the determination of patent term adjustment be corrected from two hundred ninety-four (294) days to five hundred sixty-three (563) days. 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, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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 **dismissed**.

Applicants assert that the reduction to the patent term adjustment for applicant delay should be 93 days, not 113 days. Specifically, applicants state that:

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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.

> Applicants' delay was calculated by the Patent Office to be one hundred thirteen (113) days. Applicants respectfully submits it is not correct to charge 113 days against Applicants. Applicant respectfully submit that ninety-three (93) days should be charged against Applicants beginning 3 months after the mailing of the office action dated July 28, 2008. The date of delay with the applicable rule noted, include:
>
> October 28, 2008, to November 20, 2008 23 days (§704(b))
> November 20, 2008 to January 29, 2009 70 days (§704(b))

*Excerpt taken from "Application for Patent Term Adjustment" "Statement of the Facts Involved in Determining the Patent Term Adjustment, 37 C.F.R. § 1.705(b)(2)" filed August 13, 2009, pg. 3.*

The application history has been reviewed and it has been determined that the period of reduction of 113 days is warranted.

Relative to the reduction to the patent term adjustment of 43 days, the record reveals that a non-final Office action was mailed July 28, 2008, to which applicants filed a response on October 8, 2008. On November 4, 2008, the Office mailed a Notice of Non-Compliant Amendment indicating that the response filed October 8, 2008, was not fully responsive to the Office action mailed July 28, 2008. Applicants filed an amendment on November 20, 2008. In this instance, the reduction to the patent term adjustment is calculated pursuant to 37 CFR 1.704(c)(7), not 37 CFR 1.704(b) as applicants assert.

37 CFR 1.704(c)(7) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(7) Submission of a reply having an omission (§1.35(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed an ending on the date the reply or other paper correcting the omission was filed.

It is undisputed that the response filed October 8, 2008, contained an omission and that the response correcting the omission was not filed until November 20, 2008. Accordingly, pursuant to 37 CFR 1.704(c)(7), the period of reduction of forty-three (43) days will not be changed as this period encompasses the period beginning on the day after the date the reply having an omission was filed, October 9, 2008, and ending on the date the reply correcting the omission was filed, November 20, 2008.

It is noted that the Office and applicants agree that a period of reduction to the patent term adjustment of 70 days was properly entered for the filing of an Information Disclosure Statement on January 29, 2009, 70 days after a response was filed on November 20, 2008. It is noted, however, that applicants assert that this period of reduction to the patent term is properly calculated under 37 CFR 1.704(b). In fact, this period of reduction to the patent term adjustment is properly calculated under 37 CFR 1.704(c)(8).

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 application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

COPY MAILED
DEC 29 2006
OFFICE OF PETITIONS

In re Application of :
Hill :
Application No. 11/296,202 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. 30679.5 :
For: IMPROVED DOWN HOLE OIL AND GAS WELL HEATING SYSTEM AND METHOD FOR DOWN HOLE HEATING OF OIL AND GAS WELLS

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed January 12, 2006, which set an extendable two month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on March 13, 2006. A Notice of Abandonment was mailed on September 21, 2006.

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.

Petitioner has not submitted replacement drawings.

Please find enclosed a copy of the January 12, 2006 Notice to File Missing Parts of Nonprovisional Application.

The Office acknowledges a request for small entity status, as shown by payment of small entity fees.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,080.00 extension of time submitted with the petition on November 2, 2006 was filed subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Enclosure: copy of the January 12, 2006 Notice to File Missing Parts of Nonprovisional Application

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/296,202 | 12/06/2005 | William L. Hill | 23479-5 BILL HILL |

**CONFIRMATION NO. 9885**

52061
ROBERT GREESON & DAVID HENRY
P.O. BOX 1470
WACO, TX 76703

**FORMALITIES LETTER**

Date Mailed: 01/12/2006

# NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

**FILED UNDER 37 CFR 1.53(b)**

***Filing Date Granted***

**Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  *Applicant must submit $ **300** to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing. *A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
  *Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.*

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 1.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **$1130** for a Large Entity

- **$300** Statutory basic filing fee.
- **$130** Surcharge.

- The application search fee has not been paid. Applicant must submit **$500** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$200** to complete the examination fee for a large entity

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

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***A copy of this notice MUST be returned with the reply.***

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

**COPY MAILED**

OCT 12 2007

**OFFICE OF PETITIONS**

In re Application of :
Hill :
Application No. 11/296,202 :
Filed: December 6, 2005 :
Attorney Docket No. 30679.5 :
For: IMPROVED DOWN HOLE OIL AND GAS WELL HEATING SYSTEM AND METHOD FOR DOWN HOLE HEATING OF OIL AND GAS WELLS

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed February 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonrovisional Application, mailed January 12, 2006, which set an extendable two month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on March 13, 2006. A Notice of Abandonment was mailed on September 21, 2006.

Applicant has submitted a proper reply to the January 12, 2006 Notice in the form of the basic filing fee, search fee, examination fee, an executed declaration, replacement drawings, and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the January 12, 2006 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 03 2008

**COX SMITH MATTHEWS INCORPORATED**
**112 EAST PECAN STREET, SUITE 1800**
**SAN ANTONIO TX 78205-1521**

| | | |
|---|---|---|
| In re Application of | : | |
| William L. Hill | : | |
| Application No. 11/296,202 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 30679.5 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 26, 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 statement from the applicant 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 3676 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 13 2006

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

| | |
|---|---|
| In re Application of | : |
| John A. Giordano | : |
| Serial No.: 11/296210 | : PETITION TO MAKE SPECIAL |
| Filed: December 8, 2005 | : |
| Attorney Docket No.: 48508-00073 | : |

This is in response to the petition filed March 2, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement.

Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/296,231 | 12/08/2005 | Toru Nonoyama | 283079US3 | 1501 |

7590 03/25/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| RODGERS, PATRICK G |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/25/2008 | 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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 03/25/2008 KKING1
12/12/2005 FFANAIA2 00000048 11296231
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP

Refund Ref:
03/25/2008 0030052708
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Credit Card Refund Total: $700.00

Am Exp..: XXXXXXXXXXX1009



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**STEPHEN E. FELDMAN**
**12 EAST 41ST STREET**
**NEW YORK, NY 10017**

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Lai, Sing Keung | : | |
| Application No. 11/296,237 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Title: SQUARE POST GEMSTONE SETTING | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the 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

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

**Iandiorio Teska & Coleman**
**260 Bear Hill Road**
**Waltham MA 02451**

**MAILED**

MAY 07 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Prisco Tammaro, et al. | : | |
| Application No. 11/296,244 | : | DECISION GRANTING PETITION |
| Filed: December 7, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. RAY-161J (03E058) | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 7, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on April 19, 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3635 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

SEP 25 2007

OFFICE OF PETITIONS

In re Application of :
Naoki Kobayashi et al. :
Application No. 11/296,274 :
Filed: December 8, 2005 :
Attorney Docket No. XA-9774A :
Title: NONVOLATILE :
SEMICONDUCTOR MEMORY AND METHOD :
OF MANAGING INFORMATION IN :
INFORMATION DISTRIBUTION SYSTEM :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. § 1.181(A)

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on July 18, 2007.

BACKGROUND

The above-identified application became abandoned for failure to submit a response in a timely manner in reply to the Notice of Drawing Inconsistency with Specification, mailed April 24, 2007, which set a one-month non-extendable period for reply. No extensions of time were available, and no response was received. Accordingly, the above-identified application became abandoned on May 25, 2007. A Notice of Abandonment was mailed on June 26, 2007.

With the present petition, Petitioner has asserted that a response was timely submitted on May 15, 2007, however the response contained the wrong serial number. Petitioner placed the serial number 10/296,274 on his response: consequently, this

amendment was not matched with the present electronic file. As such, the amendment was associated with application number 10/296,274.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

It is clear that the submission was timely received on May 15, 2007, and placed into the electronic file associated with application number 10/296,274.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The submission of May 15, 2007 will be removed from the electronic file associated with application number 10/296,274, and placed into the electronic file associated with the present application in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

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 any further action(s) of Petitioner.

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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OCT 05 2007

OFFICE OF PETITIONS

**MILES & STOCKBRIDGE PC**
**1751 PINNACLE DRIVE**
**SUITE 500**
**MCLEAN VA 22102-3833**

| | | |
|---|---|---|
| In re Application of | : | |
| Naoki Kobayashi et al | : | |
| Application No.11/296,274 | : | DECISION GRANTING PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. XA-9774A | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 3, 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 March 12, 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 2187 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.*

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

**HOFFMAN WASSON & GITLER, P.C**
**CRYSTAL CENTER 2, SUITE 522**
**2461 SOUTH CLARK STREET**
**ARLINGTON VA 22202-3843**

MAILED

MAR 24 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Niedermeier, Astrid | : | |
| Application No. 11/296,283 | : | ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. A-9808.COM/cat | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 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 AU 3693 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

AUG 13 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,466,285 | : | |
| Issue Date: December 16, 2008 | : | |
| Application No. 11/296,296 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. WN8175P | : | |

This is a decision on the petition under 37 CFR 1.181 (no fee), filed May 6, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent 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) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Further, a review of the record indicates that there was an irregularity in the mailing of the Letters Patent that warrants issuance of a duplicate Letters Patent.

Accordingly, the Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753

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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MATTINGLY STANGER MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL RD., SUITE 370
ALEXANDRIA, VA 22314

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FEB 15 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Masaharu Kubo | : | |
| Application No. 11/296,316 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. NIT-5087 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 19, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Inventor Masaharu Kubo's birth certificate and translation 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 2681 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WASHINGTON DC 20037-3213

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MAR 3 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Pascal Agin | : | |
| Application No. 11/296,333 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. Q91842 | : | |

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 14, 2008.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed August 17, 2007. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on February 26, 2008.

A review of the application file reveals the presence of an Amendment, filed on February 19, 2008. The Amendment was made timely with a three month extension of time, and by the fact that February 17th and 18th fell on a Sunday and a federal holiday, respectively. See 37 CFR 1.7(a). Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3617 for consideration of the Amendment filed February 19, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MANELLI DENISON & SELTER
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SUITE 700
WASHINGTON DC 20036-3307

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**OFFICE OF PETITIONS**

In re Application of
Randell L/ Mills
Application No. 11/296,350
Filed: December 8, 2005
Attorney Docket No. 95745

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 17, 2008

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

Further, the practitioners were not appointed by customer number 20817. Petitioner must withdraw by the customer in which they were appointed.

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

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

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

cc: DR. RANDELL L. MILLS
493 OLD TRENTON ROAD
CRANBURY, NJ 08512

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Takayuki Hara | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7630514 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,351 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 06/10/2010

| | | |
|---|---|---|
| **Applicant** | : Takashi Toyooka | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649574 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/296,358 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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HARRITY & HARRITY, LLP
11350 RANDOM HILLS ROAD
SUITE 600
FAIRFAX VA 22030

2/18/09

*In re* Application of:
NICHOLL, RICHARD VINCENT
Serial No.: 11/296,370
Filed: Dec. 8, 2005
Docket: PU05 0672US1
Title: MOBILE COMMUNICATION DEVICE THAT PROVIDES HEALTH FEEDBACK

DECISION ON PETITION

This is a decision on the petition filed on January 23, 2009 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed April 22, 2008, and that non-elected claims be rejoined and examined on the merits. Claims 19, 20 and 28-34 were elected for prosecution. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **GRANTED**.

A review of the record reveals that a restriction requirement was made between two disclosed and claimed related inventions: 1) Claims 1-18, drawn to a method, classified in class 600, subclass 300 and 2) Claims 19-34, drawn to a mobile communication device, classified in class 600, subclass 300.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. See MPEP 806.05(e).

In the restriction requirement of April 22, 2008, the examiner merely stated that "....the process as claimed can be practiced by a material different apparatus or by hand. More specifically, the method claims does not positively recite the use of the mobile communication device to perform the method steps." This is insufficient to establish why the inventions are independent or distinct. The examiner failed to provide any examples why the claimed process can be practiced by another and materially different apparatus or by hand. In the alternative, the examiner also failed to provide example as to why the claimed apparatus can be used to practice another and materially different process. Without any examples to support why the inventions are distinct or independent, the restriction requirement of April 22, 2008 is unsustainable.

In addition, the examiner required an election of species between the disclosed patentably distinct species: a pedometer, accelerometer, GPS technology, heart rate, blood pressure, body fat, and dietary information. The examiner further stated that the species are independent or distinct because the different species as disclosed have mutually exclusive characteristics for each identified species. These species are not obvious variants of each other based on the current record.

On page 10 of the petition, petitioner argues that the accelerometer is part of the pedometer; therefore, these two features cannot be patentably distinct species. Petitioner also acknowledges that the heart rate, blood pressure, body fat and dietary information are merely different additional features that may be included in the mobile communication device. These features are not patentably distinct species. Therefore, in the petition, petitioner concludes that the election of species requirement is improper and should be withdrawn.

Based on petitioner's arguments and admission in the petition that the examiner's alleged species are not patentable distinct species, then, the election of species is hereby withdrawn as argued by petitioner (also see second paragraph of page 5 of the restriction mailed on April 22, 2008).

## Conclusion

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement dated April 22, 2008 is not in accordance with proper Office procedure. Therefore, the examiner's restriction requirement is withdrawn. The requested relief is granted. All non-elected claims will be rejoined and examined with the previously elected claims. The examiner has been directed to issue an Office action on the merits when considering the latest amendment filed on January 16, 2009.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3769 for the examiner's preparation of an Office action in response to the amendment filed on January 16, 2009. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is GRANTED.

Donald T. Hajec, Director
Technology Center 3700

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| Toshimasa KOBAYASHI et al. | : | FOR ACCEPTANCE OF |
| Appl. No. 11/296,376 | : | COLOR DRAWINGS |
| Filed: December 8, 2005 | : | |
| For: **DYNAMICAL PRESSURE BEARING** | : | |
| **DEVICE, MOTOR, AND RECORDING** | : | |
| **DISC DRIVING DEVICE** | : | |

This is a decision on applicant's petition under 37 C.F. R. 1.84(a)(2) filed on November 26, 2008 for the acceptance of color photographs.

The petition is **GRANTED.**

The petition properly includes:

(i) The fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings;

(iii) An amendment to the specification to insert the following language as the first paragraph of the brief description of the drawings:
"*The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.*"

Applicant is requesting the acceptance of colored drawings because color drawings are necessary to better accurately describe and disclose the invention.

The invention is directed to a fluid dynamical pressure bearing device which is applied to a spindle motor for driving an HDD. The color drawing in figure 4 illustrates the color development effects of an oil repellent treatment, which is applied to the fluid dynamical pressure bearing device, is tested by exposure to an UV light, wherein a chromogenic substance is added into an oil repellent agent.

The criteria for accepting color drawings in a patent application is set forth in MPEP 608.02 and 37 C.F.R. 1.84(a)(2). In the instant application, it is considered that color drawings are the only

practical medium for disclosing the subject matter to be patented. Therefore, the colored drawing of figure 4 has been accepted.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Richard Ridley at 571-272-6917.

David Talbott , Director
Technology Center 3600
572-272-5150

rr/lm: 4/20/10
lm

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**STEIN MCEWEN, LLP**
**1400 EYE STREET, NW**
**SUITE 300**
**WASHINGTON DC 20005**

| | | |
|---|---|---|
| In re Application of | : | |
| Steven N. Flax et al. | : | |
| Application No. 11/296,393 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 0015.1001 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 6, 2010.

The request is **APPROVED**.

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

The request was signed by James G. McEwen on behalf of all attorneys/agents associated with customer number 49455. All attorneys/agents associated with customer number 49455 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Steven N. Flax
121 Cromwell Drive
Mullica Hill, NJ 08062

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/296,393 | 12/08/2005 | Steven N. Flax | 0015.1001 |

**CONFIRMATION NO. 2303**

**POWER OF ATTORNEY NOTICE**

49455
STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

*OC000000040594583*

Date Mailed: 03/15/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/06/2010.

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

/kainabinet/

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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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Azuma Tsubota | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664111 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,395 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **948** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**LITMAN LAW OFFICES**
**PO BOX 15035**
**CRYSTAL CITY STATION**
**ARLINGTON, VA 22215**

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| | | |
|---|---|---|
| In re Application of | : | |
| George E. Kelbly | : | |
| Application No. 11/296,401 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 28054.00 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The petition includes a statement by George E. Kelbly attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This application is being referred to Technology Center AU 3641 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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ANDREWS KURTH LLP
INTELLECTUAL PROPERTY DEPARTMENT
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WASHINGTON, DC 20006

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|---|---|---|
| In re Application of | : | |
| David H. Warren et al | : | |
| Application No. 11/296,402 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 157197US | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed May 19, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The 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 3641 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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**AKERMAN SENTERFITT**
**81000 BOONE BOULEVARD**
**SUITE 700**
**VIENNA, VA 22182-2683**

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JUN 22 2010

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| | | |
|---|---|---|
| In re Application of | : | |
| Kendall Peter Rycroft | : | |
| Application No. 11/296,403 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 35031.0013 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May14, 2010.

The request is **APPROVED**.

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

The request was signed by James C. Edwards, Esq. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kendall Peter Rycroft at the address indicated below.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **KENDALL PETER RYCROFT**
**2015 WILLSHIRE GLEN**
**ALPHARETTA, GA 30009-1893**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/296,403 | 12/08/2005 | Kendall Peter Rycroft | 35031.0013 |

**CONFIRMATION NO. 1805**

**POWER OF ATTORNEY NOTICE**

57362
AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA, VA 22182-2683

*OC000000042213148*

Date Mailed: 06/22/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/14/2010.

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

/tsjohnson/

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

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625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/04/2010

| | | |
|---|---|---|
| **Applicant** | : I-Ru Liu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613482 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/296,441 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York NY 10176

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Schmidt | : | |
| Application No.: 11/296,443 | : | Decision on Petitions |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. 5532-9 | : | |

A petition under 37 CFR 1.10 (c) was filed on February 2, 2006 requesting an earlier filing date. A petition was also filed requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of December 6, 2005 including figure 1 as described in the specification.

**PETITION UNDER 37 CFR 1.10(c)**

Petitioner contends the application was deposited in Express Mail service on July 2, 2004. In support, petitioner supplied a copy of Express Mail receipt No. EV75799856US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file).

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the

> "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1]
>
> (emphasis added)

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Although the date-in on the USPS Express Mail Label is illegible, the USPS stamp shows a stamp of December 6, 2005. Further, a review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on December 6, 2005.

---

[1] See 37 CFR 1.6(a).

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

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to December 6, 2005**.

**PETITION UNDER 37 CFR 1.53**

The above-identified application was deposited on December 6, 2005. However, on January 17, 2006, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of December 7, 2005 and advising applicant that "figure 1" described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends one (1) sheet of drawing including figure 1 was filed on December 6, 2005. In support, the petition is accompanied by a copy of applicant's return postcard which lists " One (1) sheet of drawing(s) (Fig.1)". The petition is further accompanied by a copy of figure 1.

Applicants' postcard receipt is prima facie evidence that at least one sheet of drawing(s) including figure 1 as described in the specification was received on December 6, 2005, but figure 1 is not present in the file. Therefore, it is concluded that figure 1 was received on December 6, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. No petition fee has been charged and none is due.

Since figure 1 as described in the specification cannot be located

in the Office, figure 1 supplied on February 2, 2006, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of December 6, 2005**, using the papers submitted on filing and

substitute figure 1 supplied with the petition on February 2, 2006.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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OFFICE OF PETITIONS

**HARNESS, DICKEY & PIERCE, P.L.C.**
**P.O. BOX 8910**
**RESTON VA 20195**

| | | |
|---|---|---|
| In re Application of | : | |
| **HUANG,** Chiang-Cheng et al. | : | |
| Application No. 11/296,474 | : | DECISION ON PETITION |
| Filed: December 08, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **98730-000202/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 October 02, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to HARNESS, DICKEY & PIERCE, P.L.C. has been revoked by the assignee of the patent application on September 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MICHAEL E. SCHMITT**
**ANYON LANE 7245**
**PORTLAND, OR 97225**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.**
**1100 NEW YORK AVENUE, N.W.**
**WASHINGTON DC 20005**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| V. Gummalla et al. | : | |
| Application No. 11/296,485 | : | ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. 1875.0450002 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 2419 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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SEP 29 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ajay Chandra V. Gummalla, et al. | : | |
| Application No. 11/296,485 | : | DECISION GRANTING PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 1875.0450002 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 28, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on August 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

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

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

---

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

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**EDWARDS ANGELL PALMER & DODGE LLP**
**P.O. BOX 55874**
**BOSTON, MA 02205**

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JUL 11 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **PARK**, Chong-Jin | : | |
| Application No. 11/296,516 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. **64559(50498)** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2008 and re-submitted May 13, 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 March 10, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 10, 2007. Accordingly, the date of abandonment of this application is March 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440, the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Philip Kehfei Yu
Bldg. 11, 399 Keyuan Road
Zhangjiang Hi-Tech Park, Pudong New District
Shanghai 20120-3 CN **CHINA**

**MAILED**

JUN 29 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of<br>William Hsu<br>Application No. 11/296,543<br>Filed: December 6, 2005<br>Attorney Docket No. 998141 PA3 | :<br>:<br>:<br>:<br>:<br>: | ON PETITION |

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the Restriction/Election Requirement mailed on August 24, 2009. A Notice of Abandonment was mailed April 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $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 3751 for review of the response filed with the present 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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Douglas Sudjian | : | DECISION REFUSING STATUS |
| Application No. 11/296,549 | : | UNDER 37 CFR 1.47(a), 1.48(a) and 1.183 |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 18085-033001 | : | |

This is a decision on the petitions filed May 23, 2008 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of David Shen, and (2) a petition under 37 CFR 1.47(a) to accept this application notwithstanding the absence of the signature of inventor, Sudjian. The Office is sua sponte treating the 1.47 petition under 37 CFR 1.183.

The petition filed under 37 CFR 1.48 is **GRANTED**.
The petition filed under 37 CFR 1.47 is **DISMISSED as inappropriate.**
The petition being treated under 37 CFR 1.183 is **GRANTED**.

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

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

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

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

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

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

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

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

The request under 37 CFR 1.48(a) in conjunction with the grant under 37 CFR 1.183 has been met.

Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration. Since inventor Sudjian signed the original petition, rule 47 status cannot be granted.

The treatment of petition as a request for waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.64 for reexecution of the supplemental oath or declaration by Sudjian who signed the original oath or declaration, is **granted**.

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction.

Pursuant to petitioner's request, deposit account 06-1050 will be charged the $400.00 37 CFR 1.183 petition fee.

Review of the record shows that inventor Shen has been added.

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

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

/Charlema Grant/
Charlema Grant
Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

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

| | |
|---|---|
| In re Patent No. 7,521,976 | : |
| Sudjian, et al. | : LETTER REGARDING |
| Application No.: 11/296,549 | : PATENT TERM ADJUSTMENT |
| Issued: April 21, 2009 | : AND NOTICE OF INTENT |
| Filed: December 7, 2005 | : TO ISSUE CERTIFICATE |
| Attorney Docket No. 18085-033001 | : OF CORRECTION |

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed July 16, 2009. Pursuant to patentees' duty of good faith and candor to the Office, patentees requests 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 patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred forty-four (144) days.

Patentees are given **THIRTY (30) DAYS or ONE MONTH, whichever is longer**, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

On April 1, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the revised patent term adjustment to date was 264 days (358 days of Office delay - 94 days of applicant delay).

On July 16, 2009, patentees submitted the instant comment. Patentees disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) is longer than appropriate. Specifically, patentees state that:

> In good faith and candor, Patentees note that no Applicant delay was accorded for the Petition to Correct

> Inventorship filed May 23, 2008, subsequent to the mailing of the Notice of Allowance.

*Excerpt taken from "Letter Regarding Patent Term Adjutsment", filed July 16, 2009, p. 1.*

On May 23, 2008, patentees submitted a "Request to Add Inventor Under 35 USC § 116 and 37 CFR § 1.48(c)", after the mailing of the notice of allowance, which under the circumstances of this application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that patentees filed the "Request to Add Inventor Under 35 USC § 116 and 37 CFR § 1.48(c)" after the mailing of the notice of allowance. It is noted that the period of reduction beginning on the date the "Request to Add Inventor Under 35 USC § 116 and 37 CFR § 1.48(c)" was filed, May 23, 2008, ending on the date the decision on the petition mailed, January 22, 2009, would be 245 days. It is further noted that this 245 day period is greater than four months which is the alternative maximum period for reduction to the patent term adjustment set forth in 37 CFR 1.704(c)(10). Thus, the period of adjustment should have been reduced by the lesser period of four months. Accordingly, a period of reduction of four months, or 120 days, will be entered.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one hundred forty-four (144) days,

(358 days of Office delay - 214 (94 + 120) 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 patentees for their good faith and candor in bringing this to the attention of the Office.

This application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended, or adjusted, by one hundred forty-four (144) days.

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 DRAFT Certificate of Correction

**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,521,976 B1

DATED : Apr. 21, 2009

INVENTOR(S) : Sudjian, 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 (264) days

Delete the phrase "by 264 days" and insert – by 144 days--

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**COLEMAN SUDOL SAPONE, P.C.**
**714 COLORADO AVENUE**
**BRIDGEPORT CT 06605-1601**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ronald R. Manna | : | |
| Application No. 11/296,554 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. M24-135 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 27, 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 timely obtained. Accordingly, the application became abandoned on January 28, 2009. A Notice of Abandonment was mailed May 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 an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

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

This matter is being referred to Technology Center AU 3768 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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SUITE 400
MCLEAN, VA 22102

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| | | |
|---|---|---|
| In re Application of | : | |
| Bernd Hintze et al. | : | |
| Application No. 11/296,568 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 543822020600 | : | FROM RECORD |
| | : | |

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

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

A review of the file record indicates that the power of attorney to Deborah S. Gladstein and the attorneys associated with customer number 25227 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 be directed to the below-listed address until otherwise notified by applicant.

There are no outstanding Office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Eschweiler & Associates, LLC
National City Bank Building
Cleveland, OH 44114

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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 |
|---|---|---|---|
| 11/296,568 | 12/08/2005 | Bernd Hintze | 543822020600 |

**CONFIRMATION NO. 9952**

*OC000000025348262*

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/13/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

---

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

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SUITE 200
EAST PALO ALTO, CA 94303

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JUN 25 2007

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|---|---|---|
| In re Application of | : | |
| Xin Su, et al. | : | |
| Application No. 11/296,571 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. FOCS-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 November 21, 2006.

The request is **DISMISSED** 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BARRY S. WILSON, ESQ.
FOLEY & LARDNER
11250 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

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

**Grossman, Tucker, Perreault & Pfleger, PLLC**
**55 South Commercial Street**
**Manchester, NH 03101**

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MAY 2 2 2008
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Eitan C. Zeira | : | |
| Application No. 11/296,573 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. PSI003CIP | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2007 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 Non-Provisional Application (Notice), mailed January 27, 2006. 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 March 28, 2006. A Notice of Abandonment was mailed on October 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed oath or declaration, with the required $65 surcharge fee, basic filing fee of $75, search fee of $255 and examination fee of $105 (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the declaration and fees are accepted as having been 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 Patent Application Processing for appropriate action in the normal course of business on the reply received December 28, 2007.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/296,574 | 12/7/2005 | Baskaran | SEMT125721 |

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

DATE MAILED: September 21, 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 September 15, 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

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Alexandria, VA 22313-1450
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**PERKINS COIE LLP**
**P.O. BOX 1208**
**SEATTLE, WA 98111-1208**

**COPY MAILED**

JUN 0 5 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ernest L. Bonner, Jr., et al. | : | |
| Application No. 11/296,575 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 63813-8001.US08 | : | FROM RECORD |
| | : | |

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 17, 2009.

The request is **APPROVED**.

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

The request was signed by Susan T. Evans 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 Ernest L. Bonner at the address indicated below.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ernest L. Bonner**
**2014 Santa Clara Ave.**
**Alameda, CA 94501**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/296,575 | 12/07/2005 | Ernest L. Bonner JR. | 63813-8001.US08 |

**CONFIRMATION NO. 9978**

**POWER OF ATTORNEY NOTICE**

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

*OC000000036328940*

Date Mailed: 06/05/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/17/2009.

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

/tswilliams/

---

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

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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NOV 06 2009

**OFFICE OF PETITIONS**

In re Application of :
Iwasaki, et al. :
Application No. 11/296,583 : ON APPLICATION FOR
Filed: December 7, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 201762.00003

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b) filed August 13, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least sixty-one (61) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office 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.

---

[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.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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One GOJO Plaza
Suite 300
AKRON OH 44311-1076

MAILED

APR 13 2010

OFFICE OF PETITIONS

| | |
|---|---|
| In re Patent No. 7,641,712 | : DECISION ON REQUEST |
| Iwaski, et al. | : FOR |
| Issue Date: January 5, 2010-04-09 | : RECONSIDERATION OF |
| Application No.11/296,583 | : PATENT TERM ADJUSTMENT |
| Filed: December 7, 2005 | : and |
| Atty Docket No.201762.00003: | : NOTICE OF INTENT TO ISSUE |
| | : CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on January 28, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred and six (206) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred and six (206) days is **GRANTED**.

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

The application is being forwarded to the Certificates of 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 **two hundred and six (206) days** is **GRANTED**.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,641,712 B2

DATED : Jan. 5, 2010

INVENTOR(S) : Iwasaki, 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 (173) days

Delete the phrase "by 173 days" and insert – by 206 days--

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Anh Huynh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7634556 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,587 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **987** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Anh Huynh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7634556 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,587 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **987** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

DENNIS L. COOK, ESQ.
THE LAW OFFICES OF DENNIS L
COOK PLLC
12718 DUPONT CIRCLE
TAMPA, FL 33626

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AUG 0 1 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Berg Hyacinthe | : | DECISION ON PETITION |
| Application No. 11/296,608 | : | |
| Filed: December 7, 2005 | : | |
| Atty Docket No. DCP0014-01UT | : | |

This is a decision on the PETITION TO CORRECT FILING DATE OF PARENT APPLICATION UNDER 37 CFR § 1.78 filed March 23, 2006, requesting that the parent application of the above-identified application be accorded a filing date of December 9, 2004.

The petition is **DISMISSED AS INAPPROPRIATELY FILED**.

Application papers in the above-identified application were filed on December 7, 2005, with a claim for the "benefit of previously filed co-pending provisional application, serial No. 60/634,637 filed December 9, 2004."

On January 27, 2006, applicant filed a REQUEST FOR CORRECTED FILING RECEIPT, requesting that the filing date of the priority application read December 9, 2004.

By RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT mailed February 2, 2006, the Office advised applicant that "the filing date of a parent application cannot be changed by this request. A petition to correct the filing date in the parent application is required."

In response, applicant filed the instant petition in the instant application (not in the parent application). However,

petitioner is advised that the petition must be filed in the parent application. It is noted that a review of the record confirms that the filing date of application No. 60/634,637 is December 10, 2004. Further, no petition is present in the '637 provisional application. Thus, a petition pursuant to 37 CFR 1.53(e)(2), or other appropriate section, including any required petition fee, is necessary to change the filing date to December 9, 2004.

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

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

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

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

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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PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS / STR
111 HUNTINGTON AVENUE
BOSTON MA 02199

**COPY MAILED**

JUN 12 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Sorge | : | |
| Application No. 11/296,614 | : | DECISION DISMISSING |
| Filed: December 7, 2005 | : | PETITION |
| Attorney Docket No. 25436/1665C | : | |

For: COMPOSITIONS AND METHODS FOR THE DETECTION OF A NUCLEIC ACID USING A CLEAVAGE REACTION

This is a decision on the petition under 37 CFR 1.53(e), filed April 26, 2006, requesting review of a determination that Figure 19 was omitted from the original application papers filed on December 7, 2005.

The application was filed on December 7, 2005. However, on February 21, 2006, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that the application had been accorded a filing date of December 7, 2005, but advising applicant that Figure 19, as described in the specification, appeared to have been omitted.

In response, on April 26, 2006, a copy of Figure 19 and the present petition were filed. Petitioner argues that Figure 19 was filed on December 7, 2005. In support, the petition is accompanied by a copy of applicant's itemized return postcard receipt showing 27 sheets of drawings were received in the Office on December 7, 2005.

The best evidence of what was filed on December 7, 2005, is applicant's postcard receipt. In this case, applicant's postcard receipt identifies 27 sheets of drawings as being filed. A review of the contents of the official file shows that 27 sheets of drawings were, in fact, filed on December 7, 2005, and are presently in the file. However, no Figure 19 (other than that supplied with the instant petition) is present. The file contains two copies of Figure 17 and no Figure 19.

Because the postcard proves 27 sheets of drawings were filed on December 7, 2005, 27 sheets of drawings are present, and Figure 19 is not depicted on one of them, the petition is **dismissed**.

The petition fee will not be refunded.

If petitioner wishes to argue incorporation by reference of prior application no. 11/249,059 in order to add Figure 19 to the present application, the argument should be made before the examiner of record.

The application is being returned to the Office of Initial Patent Examination with a filing date of **December 7, 2005.** The application has already been processed using the 27 sheets of drawings filed on December 7, 2005. Figure 19, filed with the instant petition, will not be entered.

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : **8/6/2008**

**TO SPE OF** : ART UNIT **3700 (3721)**

**SUBJECT** : Request for Certificate of Correction on Patent No.: **7,386,965**

**Attn: Hemant Desai**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

**Send copy also via PTO mail to:**
**Certificates of Correction Branch – 2900 South Tower 9A39A**
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***Ok to enter foreign references as req. in cofc?**

*Ernest C. White, LIE - 308-9390x122*
**Certificates of Correction Branch**

**Thank You For Your Assistance**

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

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

**Comments:**

_____

_____

_____

_____

_____

___/Rinaldi A. Rada/_____ ___SPE, 3721___
**SPE** **Art Unit**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : **8/6/2008**

**TO SPE OF** : ART UNIT **3700 (3721)**

**SUBJECT** : Request for Certificate of Correction on Patent No.: **7,386,965**

**Attn: Hemant Desai**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

**Send copy also via PTO mail to:**
**Certificates of Correction Branch – 2900 South Tower 9A39A**
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***Ok to enter foreign references as req. in cofc?**

*Ernest C. White, LIE - 308-9390x122*
**Certificates of Correction Branch**

**Thank You For Your Assistance**

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

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

**Comments:**

_____

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___/Rinaldi I. Rada/_____ ___SPE, 3721___
**SPE** **Art Unit**

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/296,617 | 12/06/2005 | 3651 | 1250 | 3591-1446 | 45 | 20 | 1 |

**CONFIRMATION NO. 1937**

**CORRECTED FILING RECEIPT**

*OC000000020972826*

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

Date Mailed: 10/25/2006

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

**Applicant(s)**

Johann Burkhard Schmitz, Berlin, GERMANY;
Claudia Plikat, Berlin, GERMANY;
Nicolai Neubert, Berlin, GERMANY;
Carola E.M. Zwick, Berlin, GERMANY;
Roland R.O. Zwick, Berlin, GERMANY;
Chad D. Aerts, Grand Haven, MI;
John F. Aldrich, Grandville, MI;

**Assignment For Published Patent Application**

HERMAN MILLER, INC.

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/365,682 02/12/2003
which claims benefit of 60/418,578 10/15/2002
and claims benefit of 60/356,478 02/13/2002

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/17/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/296,617**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Support member for a seating structure

**Preliminary Class**

700

## 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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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Jamie V. Farmer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664841 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,624 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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DEC 17 2009

**OFFICE OF PETITIONS**

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

| | | |
|---|---|---|
| In re Application of | : | |
| David M. GARRETT | : | |
| Application No. 11/296,627 | : | DECISION ON PETITION |
| Filed: December 07, 2005 | : | |
| Attorney Docket No. **2638.007** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant amendment (Notice) mailed, March 12, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3635 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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DICKE BILLIG & CZAJA, PLLC
ATTN: CHRISTOPHER MCLAUGHLIN
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David Reich | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593565 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,645 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **880** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DICKE BILLIG & CZAJA, PLLC
ATTN: CHRISTOPHER MCLAUGHLIN
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

Mail Date: 05/18/2010

**Applicant** : David Reich
**Patent Number** : 7593565
**Issue Date** : 09/22/2009
**Application No** : 11/296,645
**Filed** : 12/07/2005

: 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 **920** 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).

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : Oct. 28, 2009

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/296645 Patent No.: 7593565

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

Magdalene Talley

**Certificates of Correction Branch**

**571-272-0423**

**Thank You For Your Assistance**

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

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

**Comments:**

Matthew C. Bella Digitally signed by Matthew C. Bella DN: cn=Matthew C. Bella, c=US Date: 2010.05.12 12:23:05 -04'00'

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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JAN 14 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Neil Oronsky, et al. | : | |
| Application No. 11/296,650 | : | DECISION ON PETITION |
| Filed: December 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. NKSY-015 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 15, 2007.

The request is **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 Carol L. Francis 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.

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: NEIL ORONSKY
28540 MATADERO CREEK LANE
LOS ALTOS, CA 94022

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/296,650 | 12/06/2005 | Neil Oronsky | NSKY-015 |

**CONFIRMATION NO. 9744**

**POWER OF ATTORNEY NOTICE**

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

*OC000000027634698*

Date Mailed: 01/10/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/15/2007.

- 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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DEC 1 5 2009

OFFICE OF PETITIONS

Mika Mayer
755 Page Mill Road
Palo Alto, CA 94304-1018

| | | |
|---|---|---|
| In re Application of | : | |
| Neil Oronsky et al. | : | |
| Application No. 11/296,650 | : | DECISION ON PETITION |
| Filed: December 6, 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 CFR § 1.36(b), filed October 28, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Mika Mayer does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: NEIL ONSKY
28540 MATADERO CREEK LANE
LOS ALTOS CA 94022

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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

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

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MAY 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Martin Glensbjerg :
Application No. 11/296,662 : DECISION ON PETITION
Filed: June 23, 2005 :
Attorney Docket No.: :
P66610US1 :
Title: METHOD FOR THE :
ASSESSMENT OF PARTICLES AND A :
SYSTEM AND DEVICE FOR USE IN
THE METHOD

## Background

This is a decision on the petition filed March 1, 2006, requesting that the above-identified application be accorded a filing date of June 23, 2005.

The application was deposited on June 23, 2005. On December 7, 2005, Applicants contacted the Examiner to inquire as to the reason why a filing receipt had not been received. It was determined that a filing date had not been accorded to this application, and Applicant has asserted that the application might have been misplaced in the Office of Initial Patent Examination (OIPE).

With the present petition, Petitioner has presented a thirty-four page specification (which appears to be a copy of a PCT application), fifteen pages of claims containing 128 claims, a one-page abstract, and six pages of drawings. Petitioner has also included a date-stamped postcard receipt, and has requested

that the present application be accorded a filing date of June 23, 2005.

## The Relevant Portion 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 (emphasis added.) 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) (emphasis added.).

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 (emphasis added.) 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

With the present petition, Petitioner has included a copy of his date-stamped postcard receipt. 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 a "preliminary amendment" and a "rule 53(b) application" were included on filing; the postcard gives no indication of how many pages were received. Hence, Petitioner's postcard cannot be relied upon to establish that any specific paper was received in the Office on June 23, 2005.

The PTO file is the official record of all papers filed in this application. Fortunately, a review of the official file reveals that the following papers were received on June 23, 2005: a four-page transmittal letter, a twelve-page preliminary amendment containing six pages of claims, a one-page assignment and a one-page declaration, a seven-page Information Disclosure Statement, and a 92 page PCT application. It is noted that the PCT application contains drawings.

## Conclusion

Therefore, the application was complete on filing and entitled to a filing date of June 23, 2005.

Accordingly, the petition is **GRANTED**.

OIPE will be notified that the application should receive a filing date of June 23, 2005, using the original application papers filed on that date. Office records will reflect that these papers were present on filing. The papers submitted with the present petition will not be entered.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

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BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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AUG 11 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Gailunas et al. | : | |
| Application No. 11/296669 | : | ON REQUEST FOR |
| Filing or 371(c) Date: 12/07/2005 | : | RECONSIDERATION OF |
| Atty Docket No.: 01-1733-D1 | : | PATENT TERM ADJUSTMENT |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b) filed June 3, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 292 days, not 221 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

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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.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.: X**

DATE : July 17, 2008

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/296673 Patent No.: 7261837 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.

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

**Comments:** _____

/Jerry Lorengo/ SPE 1793

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 05/25/2010

| | | |
|---|---|---|
| **Applicant** | : Masayuki Inoue | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7660514 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/296,689 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1097** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jun-09

NAVAL AIR WARFARE CENTER AIRCRAFT
DIVISION OFFICE OF COUNSEL BLDG 435
SUITE A
47076 LILJENCRANTZ ROAD UNIT 7
PATUXENT RIVER MD 20670

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Gatewood et al. :
Application Number: 11/296723 :
Filing Date: 12/06/2005 : ON PETITION
Attorney Docket Number: NAVY :
CASE 97230 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 28, 2009.

The petition is **GRANTED**.

This application became abandoned on March 23, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on December 22, 2008, which set a three (3) month statutory period for reply.[2] Notice of Abandonment was mailed on April 17, 2009.

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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)).

[2] A PTOL-85B issue fee transmittal form was filed on January 5, 2009. Counsel's deposit account, however, did not contain sufficient funds to charge the issue fee.

Receipt of the issue and publication fees paid on April 28, 2009 is acknowledged.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (32469)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : James O. Gilkerson | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7580746 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,732 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham MA 02451-1914

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AUG 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Dwyer et al :
Application No. 11/296,748 : ON PETITION
Filed: December 7, 2005 :
Attorney Dkt No. MMS-34 :
Title: Anatomical Visualization and:
Measurement System :
:

This is a decision on the petition filed April 3, 2006, requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of December 7, 2005 including figures 44 and 46.

The application was filed on December 7, 2005. However, on January 31, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of December 7, 2005 but figures 44 and 46 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 44 and 46 as described in the specification were filed on December 7, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists " Drawings (52 sheets)". The petition is further accompanied by a copy of figures 44 and 46.

Applicants' postcard receipt is prima facie evidence that at least 52 sheets of drawings, including figures 44 and 46 were received on December 7, 2005. A review of the Office records (artifact folder) shows that figures 44 and 46 have been located.

The petition is Granted. Deposit account 16-0221 will be refunded the $400.00 petition fee.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of December 7, 2005**, using the using the application papers submitted on filing including figures 44 and 46.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GEORGE R. CORRIGAN
5 BRIARCLIFF COURT
APPLETON, WI 54915

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Curt A. Frievalt et al | : | |
| Application No. 11/296,752 | : | DECISION DISMISSING PETITION |
| Filed: December 7, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. CMD 225B | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 27, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

In this case, the petition was not received in the Office of Petitions for consideration until October 5, 2007. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $395 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CRAIG W. RODDY
P.O. BOX 1431
DUNCAN, OK 73536-0440

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FEB 07 2006

**OFFICE OF PETITIONS**

In re Application of
Jiten Chatterji et al
Application No. 11/296,784
Filed: December 7, 2005
Attorney Docket No. 2004-IP-015867U1D1

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 December 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 from Inventor Jiten Chatterji stating that he/she 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 3672 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Stattler-Suh PC
60 SOUTH MARKET
SUITE 480
SAN JOSE, CA 95113

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OFFICE OF PETITIONS

In re Application of
Stefanos Sidiropoulos, et. al.
Application No. 11/296,786
Filed: December 7, 2005
Attorney Docket No. AELU.P0010

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue on or before June 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 28, 2008. Accordingly, the date of abandonment of this application is June 29, 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, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Andy Pho appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Aaron Cunningham | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590762 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,790 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MOMENTIVE PERFORMANCE MATERIALS INC.
C/O DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Proctor et al. | : | |
| Application Number: 11/296795 | : | DECISION ON PETITION |
| Filed: 12/07/2005 | : | |
| Attorney Docket Number: 1302-96 | : | |
| (US 194794) | : | |

This is a decision on the petition filed on June 23, 2008, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of December 7, 2005.

The petition is **granted**.

The instant nonprovisional application papers as filed consisted of 90 pages of specification, including the claims, containing text and drawings on the same pages. On January 25, 2006, however, the Office of Patent Application Processing sent a Notice stating that, *inter alia*, a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125 is required, accompanied by a marked-up copy as set forth in 37 CFR 1.125(c) and a statement that the specification contains no new matter because the specification contains drawings or flow diagrams (37 CFR 1.58(a)), and that formal drawings in accordance with 37 CFR 1.81 should be submitted.

In response, on April 24, 2006, a petition and fee for a one (1) month extension of time were filed. A substitute specification, including one (1) sheet of drawings, a marked-up copy of the specification, and a statement by petitioner's registered patent practitioner that no new matter is included in the substitute specification were also filed. The application was subsequently accorded a filing date of April 24, 2006.

In response, the present petition was filed on June 23, 2008. Petitioners assert that the correct filing date is December 7, 2005, and request that the filing date be corrected.

Pursuant to 35 USC 111(a)(2)(B), in order to obtain a filing date, a nonprovisional application must provide the specification required by 35 USC 112, and a drawing as prescribed by 35 USC 113, conditions clearly met herein on December 7, 2005. All conditions for obtaining a filing date in this application were clearly met on December 7, 2005.[1]

Under the facts of this case, this nonprovisional application is entitled, for a filing date, to the date of receipt of the 90 pages of specification that also contained drawing figures. There is no explicit requirement that precludes the obtaining of a filing date for an application when the specification and drawings are, as here, not separated.

No petition fee is due. The petition fee will be credited to counsel's deposit account.

The filing date will be corrected to December 7, 2005.

This nonprovisional application is being forwarded to the Office of Patent Application Processing (OPAP), Customer Corrections, for further processing with a filing date of December 7, 2005.

Telephone inquiries should be directed to the undersigned at 571-272-3231. Inquiries related to OPAP processing should be directed to OPAP at 571-272-4000.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] It is additionally noted that Claims 1-36 as originally filed are composition claims. It has been the practice of the USPTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications. MPEP 601.01(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 30 2006

OFFICE OF PETITIONS

JOHN W. HARBST
1180 LITCHFIELD LANE
BARTLETT IL 60103

In re Application of
Christopher C. Gaydos et al.
Application No. 11/296,800
Filed: December 7, 2005
Title of Invention: **RAILROAD CAR HATCH COVER HINGE STRUCTURE AND METHOD FOR CONNECTING A HATCH COVER TO A RAILCAR**

: DECISION ON PETITION

This is a decision on the petition filed March 13, 2006, in response to the "Notice to File Corrected Application Papers" mailed January 12, 2006, which is treated under 37 CFR 1.182.

The instant application was filed December 7, 2005 and a filing date was accorded. However, the Notice indicated in addition to compliance issues regarding the specification, page 21 of the specification appeared to have been omitted.

Petitioner asserts that page 21 of the specification was among the papers filed on December 7, 2005, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. While the official file reveals that only 23 pages were filed, the postcard receipt, identifies the application and acknowledges, inter alia, that the application included a 24 page specification and bears a United States Patent and Trademark Office date-stamp of December 7, 2005. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

Based on petitioners' representations it appears that a 24 page specification, including page 21 was present in the Office on December 7, 2005. However, as required, copies of page 21 was not filed with the instant petition. Thus, the petition is **DISMISSED** without prejudice to reconsideration because petitioners have not supplied a copy of page 21 of the specification. Petitioners must supply a copy of page 21 of the specification with a renewed petition. In view thereof, deposit account no. 10-1330 has been charged in the amount of $400.00 for the petition fee however, at the time the renewed petition and page 21 of the specification has been submitted, the petition fee will be refunded to petitioner's deposit account.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of

this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing without page 21 of the specification.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Orum & Roth LLC
Ste 1616
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Chicago IL 60604

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SEP 29 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Pixie A. Austin | : | |
| Application No. 11/296,805 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 14281 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

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

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Akira Izumi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7617833 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/296,808 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 11/29/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAY 29 2007

**OFFICE OF PETITIONS**

In re Application of :
Smith, et al. :
Application No. 11/296,814 : ON PETITION
Filed: December 7, 2005 :
Attorney Docket No. BTBSP-5915A(1)BXTR 3102.1 :
For: METHOD OF STORING LABILE SPECIES

This decision is in response to the petition under 37 CFR 1.47(a) filed on December 7, 2005.

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.**

Petitioners have submitted a copy of the original executed declaration filed in Application No. 10/188,706, of which the instant filing is a continuation application. It is noted that a decision, mailed on October 14, 2003, granted Rule § 1.47 status to the prior application.

Pursuant to 37 CFR 1.63(d), petitioners may obtain Rule § 1.47 status in the present child application if petitioners file a copy of the October 14, 2003 decision granting § 1.47 status in the parent application.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: TIMOTHY B. MCBRIDE
SENNIGER, POWERS, LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS, MO 63102

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DEERFIELD IL 60015

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AUG 0 6 2007

**OFFICE OF PETITIONS**

In re Application of :
Smith, et al. :
Application No. 11/296,814 : ON PETITION
Filed: December 7, 2005 :
Attorney Docket No. BTBSP-5915A(1)BXTR 3102.1 :
For: METHOD OF STORING LABILE SPECIES

This decision is in response to the reconsideration petition under 37 CFR 1.47(a) filed on June 26, 2007.

The petition is **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioners have submitted a copy of the executed oath or declaration filed in Application No. 10/188,706, of which the instant filing is a continuation application. Furthermore, petitioners have submitted a copy of the decision, mailed on October 14, 2003, granting a petition to accord § 1.47 status to the prior 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. No fee has been or will be charged.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the prior application has already been sent to the non-signing inventor.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

After this decision is mailed, the application will be forwarded to Technology Center A.U. 1772 for examination in due course.

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

CC: KATHLEEN M. PETRILLO
SENNIGER, POWERS, LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS, MO 63102

UNITED STATES PATENT AND TRADEMARK OFFICE

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**DARBY & DARBY P.C.**
**P.O. BOX 5257**
**NEW YORK, NY 10150-5257**

In re Application of :
Thomas Ruhland et al :
Application No. 11/296,835 : ON PETITION
Filed: December 6, 2005 :
Attorney Docket No. 05432/1200913-US2 :

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on August 28, 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 1624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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**DARBY & DARBY P.C.**
**P.O. BOX 5257**
**NEW YORK NY 10150-5257**

| | | |
|---|---|---|
| In re Application of | : | |
| Thomas ruhland et al | : | |
| Application No. 11/296,836 | : | ON PETITION |
| Filed: December 6, 2005 | : | |
| Attorney Docket No. 05432/1200913-US1 | : | |

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on August 28, 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 1624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/296,847 | 12/08/2005 | Jueng-gil Lee | SEC.315DRE | 1990 |

20987 7590 12/10/2009
VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

| EXAMINER |
|---|
| DICKEY, THOMAS L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2826 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/10/2009 | 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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Kenneth D. Springer, Esq.
VOLENTINE & WHITT, P.L.L.C.
11951 Freedom Drive, Suite 1260
Reston, Virginia 20190

*In re* Application of LEE ET AL.
Appl. No.: 11/296,847
Filed: December 08, 2005
For: THIN FILM TRANSISTOR SUBSTRATE

**DECISION ON PETITION UNDER 37 CFR 1.59**

This is a decision on the petition under 37 CFR 1.59, filed July 15, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that the documents cited in Information Disclosure Statement, filed July 15, 2009, be expunged from the record.

MPEP § 724.05.I. sets forth the conditions for a grantable petition to expunge information submitted pursuant to MPEP § 724.

> I. INFORMATION SUBMITTED UNDER MPEP § 724.02
>
> A petition under 37 CFR 1.59(b) to expunge information submitted under MPEP §724.02, or that should have been submitted under MPEP § 724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP § 724.02) will be entertained only if the petition fee (37 CFR 1.17(g)) is filed and the information has been found not to be material to patentability. If the information is found to be material to patentability, any petition to expunge the information will be denied. Any such petition to expunge information submitted under MPEP § 724.02 should be submitted at the time of filing the information under MPEP § 724.02 and directed to the Technology Center (TC) to which the application is assigned. Such petition must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) 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;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

The petition is **deficient** because applicant has failed to provide:

"(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public; and
(C) 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."

Because the petition fails to meet all the conditions set forth MPEP § 724.05. I., the petition to expunge under 37 CFR 1.59, filed July 15, 2009, is hereby **DISMISSED.**

The application file is being forwarded to Publishing Division for issuance of a patent.

Any inquiry concerning this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Gladys J. Corcoran, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

RH

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Sunstein Kann Murphy & Timbers LLP
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BOSTON, MA 02110-1618

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OFFICE OF PETITIONS

In re Patent of Cohen et al. :
Patent No. 7,489,123 :
Issue Date: February 10, 2009 :
Application No. 11/296,858 :
Filing Date: December 7, 2005 :
Attorney Docket No. 2954/163 :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Indicated in the Patent (37 C.F.R. § 1.705)" filed April 8, 2009. Patentees request the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from two hundred eighty (280) days to three hundred forty-five (345) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application matured into United States Patent No. 7,489,123, with a revised patent term adjustment of 280 days on February 10, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentees contend the correct patent term adjustment is 345 days instead of 280 days due to the Office's failure to issue the patent within three years.

An increase in patent term adjustment for delay in the issuance of a patent is not appropriate if such delay overlaps with Office delay under other provisions of 35 U.S.C. § 154(b)(1).

The only issue in this case is the extent to which the delay in the issuance of the patent overlaps with the Office's 406 days of delay pursuant to 37 C.F.R. § 1.702(a)(1).

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period 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 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.[1]

The relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, December 7, 2005, to the date of issuance of the patent, February 10, 2009.[2] In this case, the period of delay of 65 days attributable to the delay in the issuance of the patent overlaps with 65 of the 406 days of delay attributable to grounds specified in 37 C.F.R. § 1.702(a)(1). Therefore, the Office acted properly when it did not increase the patent term adjustment as a result of the Office taking in excess of three years to issue the patent.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[1] *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) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

[2] The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(i)-(iii).

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1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

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In re Application of :
Chu, et al. :
Application No. 11/296,876 :
Filed: December 9, 2005 :
Attorney Docket No. 101743-37698 :

ON PETITION

This is a decision on the papers styled, "Petition to be Accorded a Filing Date Pursuant to 37 CFR 1.53 with Fee Required under 37 CFR 1.17(f)," filed January 27, 2006, which has been treated as a petition under 37 CFR 1.57 requesting that the above-identified application be accorded a filing date of December 9, 2005 and incorporating by reference drawings from a prior application.

The application was submitted on December 9, 2005. However, on January 18, 2006, the Office of Initial Patent Examination ("OIPE") mailed a "Notice of Incomplete Nonprovisional Application," ("Notice") that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on January 27, 2006, the instant petition was filed.

Petitioner states:

> "Applicants are in receipt of Notice of Incomplete Nonprovisional Application mailed January 18, 2006 in regard to the above-identified patent application that was filed as a continuation of and claiming the benefit of U.S. Patent Application Serial No. 09/824,830, filed April 3, 2001, now pending, which, in turn was based on and claims the benefit of Provisional Application Serial No. 60/229,678, filed September 1, 2000.
>
> In the filing of the above-identified patent application, the drawings from patent application Serial No. 09/824,830 were inadvertently omitted. Submitted with this Petition are a Response to the Notice of Incomplete Application and an Amendment amending the above-identified patent application to incorporate them by reference from patent application Serial No. 09/824,830 pursuant to 37 CFR 1.57(a), including a copy of parent application Serial No. 09/824,830."

MPEP 201.06(c) states:

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference unless an appropriate petition under 37 CFR 1.57(a)(3) or under 37 CFR 1.182 is granted. Until such a petition has been granted, the application will not be entitled to a filing date.
>
> For an application filed on or after September 21, 2004, if the material needed for a filing date is completely contained within a prior-filed application to which benefit is claimed, applicant may file a petition under 37 CFR 1.57(a)(3) along with the fee set forth in 37 CFR 1.17(f) and an amendment with the inadvertently omitted material requesting that the amendment be entered and the application be accorded a filing date as of the original date of deposit of the application papers. See 37 CFR 1.57(a)(3) and MPEP § 201.17."

37 CFR § 1.57 Incorporation by reference, states:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> > (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

If petitioner wishes to add the missing drawings via incorporation by reference, the proper procedure is by the submission of an appropriate petition under 37 CFR 1.57(a)(3), which petitioner has done.

However, a review of the first sentence of the specification filed on December 9, 2005 indicates Applicant claims priority to "Serial No. 09/324,830 filed on April 3, 2001" and not application No. 09/824,930, filed April 3, 2001, as indicated on the instant petition. As such, petitioner may not rely on 37 CFR 1.57(a) in order to incorporate by reference the missing drawings as there is not a proper benefit claim to application No. 09/824,830.

Accordingly, the petition is <u>dismissed</u>.

However, MPEP 608.02 states:

> "An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:
>
> > (A) at least one process claim including the term "process" or "method" in its introductory phrase;"

Since the claims contain at least one process claim including the term "process" or "method" in its introductory phrase, drawings are not required in order to accord a filing date.

In view of the above, the above-identified application is entitled to a filing date of December 9, 2005.

The application will be returned to the Office of Initial Patent Examination for processing with a filing date of December 9, 2005, with zero (0) drawings received on that date, and issuance of a filing receipt.

Telephone inquiries should be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.

Charles Pearson
Director
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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|---|---|---|
| In re Application of | : | |
| Chu et al. | : | |
| Application No. 11/296,876 | : | |
| Filed: December 9, 2005 | : | DECISION ON PETITION |
| Attorney Docket No.: | : | |
| 101743-37698 | : | |

This is a decision on the "Request for Reconsideration of Decision Dated March 17, 2006 Concerning a Petition Pursuant to 37 CFR 1.57 to Add the Missing Drawings via Incorporation by Reference", filed April 17, 2006.

Background

The application was filed on December 9, 2005. On January 18, 2006, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter ("Notice"), stating that the application had NOT been accorded a filing date, because the application had been deposited without drawings.

In response to the Notice, Applicant filed a petition on January 27, 2006, wherein Applicant sought, pursuant to 37 CFR 1.57(a), to amend the application to incorporate by reference drawings from prior-filed application 09/824,830 based upon a putative priority claim filed with the application on December 9, 2005 to prior-filed application 09/824,830.

The petition was dismissed in a Decision mailed March 27, 2006. The Decision dismissing the petition accorded the application a filing date of December 9, 2005; however, the Decision also informed Applicant that the priority claim filed with the application on December 9, 2005 was to prior-filed application 09/324,830, and not 09/824,830. As such, Applicant was informed that he could not rely upon 37 CFR 1.57(a) to incorporate by

reference the missing drawings because there was not a proper benefit claim to application no. 09/824,830.

The instant Request for Reconsideration

Applicant files the instant Request for Reconsideration wherein Applicant seeks to "correct the typographical error in the Specification concerning the Application serial number of the priority claim by an Amendment filed on even date herewith".

Applicant asserts that there was other cited information filed by Applicant "that sufficiently described and uniquely identified the prior-filed application as application Serial no. 09/824,830."

Applicable Law, Rules and MPEP

Initially it is noted that Applicant has filed the Amendment to correct the typographical error more than four (4) months after the application was filed.

As provided in 37 CFR 1.78(a)(2) "[t]his reference [to the prior-filed application] must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application.

Further to this, 37 CFR 1.78(a)(3) provides that "[i]f the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section…" a petition is required.

Moreover, the question was specifically addressed in the American Inventor's protection Act ("AIPA") Questions and Answers (Q&A) section on the USPTO Web Site under Priority Claims, where it reads:

**CX9. Applicant filed an application with a claim for the benefit of an earlier copending nonprovisional application, Application No. 05/123,455. The benefit claim was filed within four months from the actual filing date of the application, but referenced an incorrect application number (should have been 06/123,456. If applicant wants to correct the application number after the four**

**month period would a petition under 37 CFR 1.78(a)(3) and the surcharge set forth in 37 CFR 1.17(t) be required?** (added 4Feb2005)

Yes, a petition and the surcharge would be required to correctly identify the prior application number because a benefit claim pursuant to 37 CFR 1.78(a)(2) requires identification of the application number and the Office enters the prior application's application number to schedule the application for publication.

Accordingly, the perfection of the priority claim must be by way of a petition under 37 CFR 1.78(a)(3).

37 CFR 1.57

In order for 37 CFR 1.57 to apply, the application must have contained a claim for priority under 37 CFR 1.55 or 1.78. See, 37 CFR 1.57(a).

Here, Applicant failed to include a claim for priority to application serial number 09/824,830, accordingly, Applicant may not incorporate by reference material from Application Serial no. 09/824,830.

Moreover, a petition under Rule 57 only applies where an application is not otherwise entitled to a filing date. See 37 CFR 1.57(a)(3). (If the application has been accorded a filing date, and addition of inadvertently omitted material under Rule 57 is sought, an amendment under 37 CFR 1.57 is the proper avenue of relief).

Here, the application was entitled to and accorded a filing date of December 9, 2005 in the Decision mailed March 27, 2006.

Incorporation by reference

Applicant is further advised that he may not now incorporate by reference material that was not present on filing. Applicant's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Here, Applicant failed to include a proper incorporation by reference to prior-filed application no. 09/824,830. Applicant may not now seek to incorporate by reference material that was not "included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application." Id.

Conclusion

The petition to add missing drawings via incorporation by reference is **dismissed**.

Telephone inquiries concerning this matter should be directed to attorney Derek L. Woods at (571) 272-3232.

Charles A. Pearson
Director
Office of Petitions

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

**COPY MAILED**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Giles, Brian C. | : | |
| Application No. 11/296,879 | : | ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. 06XP-117593 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 20, 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 Election, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

This matter is being referred to Technology Center AU 1616 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JEFFREY A. MCKINNEY
212 CONSULTING, INC.
851 MORAGA ROAD, BUNGALOW B
LAFAYETTE, CA 94549

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Romain Desplats et al. | : | |
| Application No. 11/296,888 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. 049259-009400 | : | |

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 10, 2007. Accordingly, the date of abandonment of this application is November 11, 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 $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**PETERS VERNY JONES & SCHMITT, L.L.P.**
**425 SHERMAN AVENUE**
**SUITE 230**
**PALO ALTO CA 94306**

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Singaram et al. | : | |
| Application No. 11/296,898 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 98-101-4 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 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 Declaration from the applicant, Ritchie Wessling, along with a copy of the applicant's U.S. Passport. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 1618 for action on the merits commensurate with this decision.

Liana Chase
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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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Cha-Won Koh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582899 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/296,921 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JUN 30 2006

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United States Patent and Trademark Office
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Christine A. Gritzmacher
GEN-PROBE, INCORPORATED
Patent Department
10210 Genetic Center Drive
San Diego CA 92121

In re Application of
NORMAN et al
Serial No.: 11/296,931
Filed : December 8, 2005
Attorney Ref No. : GP175-02.UT

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.181, filed on May 19, 2006, to request the review and withdraw of the restriction requirement.

**BACKGROUND**

A review of the file history shows that a restriction requirement was mailed on April 7, 2006. Applicants elected Group I, claims 1-11, composition claims) with traverse.

On May 19, 2006, this petition was filed. An Information Disclosure Statement was filed May 24, 2006.

**DISCUSSION**

The application, file history and petition under 37 C.F.R. 1.181, to request review of the restriction requirement has been considered. This request is untimely because the examiner has not considered the traversal and has not made the restriction requirement Final. Restriction requirements may only be petitioned under 37 CFR 1.144 after the restriction requirement has been made final. See MPEP 818.03(c) and text from 37 CFR 1.144 (emphasis added).

> **After a final requirement for restriction**, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to

the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

**DECISION**

The petition under 37 C.F.R. 1.181, to request to withdraw the restriction requirement is **DISMISSED** as untimely.

The application will be forwarded to the examiner to consider the election filed April 7, 2006.

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 703-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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MAY 21 2007

Christine A. Grittmacher
GEN-PROBE INCORPORATED
PATENT DEPARTMENT
10210 GENETIC CENTER DRIVE
SAN DIEGO CA 92121

| | | |
|---|---|---|
| In re Application of | : | |
| NORMAN et al. | : | |
| Serial No.: 11/296,931 | : | Decision on Petition |
| Filed : December 8, 2005 | : | |
| Attorney Docket No.: GP175-02.UT | : | |

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on September 28, 2006 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

**BACKGROUND**

On April 7, 2006, the examiner mailed a restriction requirement in which the original claims 1-20 were divided in 2 groups. The examiner further required applicant to elect a single disclosed subgroup consisting of 10 SEQ ID Nos for prosecution on the merits to which the claims shall be restricted.

On May 8, 2006, Applicants elected Group I, Claims 1-11, with traverse stating that the claims are directed to mixtures using a group of genes and limiting the search and examination to 10 sequences limits the invention and makes it impossible to claim a functional invention as disclosed. Applicants elected SEQ ID Nos 24, 26, 28, 30, 32, 34, 36, 38, 40 and 41.

On May 19, 2006, Applicants filed a petition for reconsideration of the restriction requirement, which was dismissed on June 30, 2006 as untimely because the requirement for restriction had not yet been made FINAL.

On July 28, 2006, the examiner mailed to applicants a non-final Office action examining Claims 1-3 and made the requirement for restriction FINAL. Despite Applicants traversal, the examiner directed Applicants' attention to MPEP 803.04 and maintained the requirement of 10 sequences.

On September 28, 2006, applicants filed a response to the Office action along with this petition to request that the Office reconsider the restriction requirement.

On 20 November 2006, Applicants filed an Information Disclosure Statement.

**DISCUSSION**

The petition and file history have been carefully considered.

The petition asserts that the "examination of only ten sequences precluded examination of any of the preferred embodiments shown by the mixtures of oligomers specified by SEQ ID numbers in the four clauses of the original claim 1" (page 4 of Petition). The Petition further asserts that original claim 1 presented clauses that describe mixtures of 13-15 oligonucleotides per group specified by SEQ ID NO: numbers. The petition requests the examination of one of the groups (e.g., 14 sequences).

On page 10 of the Petition request, applicants specifically request that 14 sequences be examined in this application (i.e., those shown in the fourth clause of the original claim 1. Since the original restriction requirement required applicant to pick 10 sequences for examination, applicants were not given the opportunity to pursue their invention as drafted.

The MPEP requires that a single combination of nucleotide sequence may be pursued in 803.04.

> Applications claiming only a combination of nucleotide sequences, such as set forth in example (B), will generally not be subject to a restriction requirement. The presence of one novel and nonobvious sequence within the combination will render the entire combination allowable. The combination will be searched until one nucleotide sequence is found to be allowable. The order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual nucleotide sequence is found to be allowable, the examiner will consider whether the combination of sequences taken as a whole renders the claim allowable.

The petition argues that the specification provides the mixtures of oligonucleotides detect high-risk types of HPV and must include multiple oligonucleotides (see page 5 of the Petition). Thus, applicants argue the invention lies in the mixture of oligonucleotides for HPV detection and not in the individual oligonucleotides proposed by the examiner.

On the last full sentence of page 10 of the petition, in the Conclusion and Request section, it appears that applicants specifically request relief and seek to pursue the 14 sequences shown in the fourth clause of original claim 1 (see bottom of page 10 of the petition). That mixture is:

> first amplification oligomers of SEQ ID Nos. 18, 20, 22, 24, 26, 28, 30, 32, 34 and 36, and second amplification oligomers of SEQ ID Nos. 38, 39, 40 and 41, or complementary oligomer sequences or RNA equivalents of the oligomer sequences.

However, the election is not commensurate in scope with the claims as currently amended. Claim 1, as pending, has been amended so that the oligomer having SEQ ID NO 30 is currently not recited as part of the elected combination. None of the claims which depend upon claim 1 provide the missing oligomer having SEQ ID No 30.

Additionally, the second clause of claim 12 sets forth a combination which is similar to the elected invention. Claim 12's second clause requires the combination of oligomers of SEQ ID Nos 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 39, 40 and 41, which is the combination apparently being elected. However, claim 12 also requires an oligomer having SEQ ID No 37.

Because of this apparent discrepancy between the claims, as currently amended, and the election set forth in the petition, which is described in terms of the fourth clause of original claim 1, it is not clear what applicant intends to elect.

It is noted that the instant application is directed to combinations and subcombination. Should the elected combination be found allowable, any claims directed to other combinations that require all the oligomers of the elected and allowable invention will be considered for rejoinder practice per MPEP 821.04(a).

**DECISION**

The petition is **DISMISSED** in view of the discrepancy between the elected invention and the claims as currently amended.

Applicants are correct that the Office cannot require that applicants limit their combination invention to ten sequences. A claim drawn to a single combination requiring a single mixture of more than ten oligomers, described by their nucleic acid sequence is permissible.

However, because none of the current claims are commensurate in scope with the election set forth in the petition, it is not clear which combination has been elected for examination. Applicant must make his or her own election.

Applicants have already elected SEQ ID Nos 24, 26, 28, 30, 32, 34, 36, 38, 40 and 41 and have already received a first action on the merits for their elected invention. In response to this petition decision, applicants may now elect additional oligomers which will be added to combination of 10 oligomers originally permitted and originally elected. The elected combination must comprise those originally elected and examined. Applicants may not use this response as an opportunity to switch inventions to a different combination of oligomers which does not comprise those which have already been elected.

Applicants are **given two (2) months shortened statutory response time** in which to clarify what they intend to elect and to present a claim that reads upon the elected invention. Applicants must also identify all claims which read upon their elected invention. **This two month response time is not extendable.**

Any request for reconsideration must also be filed within **two (2) months** of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Christopher Low

Christopher Low
Director, Technology Center 1600
jb/jg

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 26 2006
OFFICE OF PETITIONS

In re Application of :
Aljuri et al. : DECISION ON PETITION
Application No. 11/296,951 :
Filed: December 7, 2005 :
Atty Docket No.017534-002820US:

This is a decision on the PETITION TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION filed March 6, 2006, requesting that the above-identified application be accorded a filing date of December 7, 2005 with figures 27-29 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on December 7, 2005. However, on January 13, 2006, the Initial Patent Examination Division (IPED) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, figures 27-29 described in the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition. Applicants contend that figures 27-29 were deposited in the U.S. Patent and Trademark Office as part of the 31 sheets of drawings that were filed on December 7, 2005. In support thereof, applicants submit a copy of their date-stamped and itemized postcard and 31 sheets of replacement drawings. No copy of the drawing sheets containing figures 27-29 as applicants maintain they were originally filed on December 7, 2005 were enclosed.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of applicants' postcard shows that 1) it bears an OIPE date-stamp of receipt of December 7, 2005, 2) it identifies "31 pgs. Drawings" among the items being filed, and 3) it lacks a notation of non-receipt of any item listed. Thus, it is concluded that applicants have shown that the application as filed on December 7, 2005 included 31 Sheets of Drawings.

However, on petition, petitioner has not supplied a copy of the drawing sheets containing the missing sheets of drawings as applicants maintain they were filed on December 7, 2005. Rather, applicants seek to use later-filed replacement drawings. Receipt of the sheets of drawings referenced on the postcard is required before the Office can grant the petition, if appropriate, and return the application to the Office of Initial Patent Examination (OIPE) for processing as a nonprovisional application entitled to a filing date with figures 27-29.

Accordingly, the petition is **dismissed** without prejudice to reconsideration upon the submission of the figures 27-29 as filed among the "31 pgs. Drawings" identified on the return receipt.

Applicants are given ONE (1) MONTH from the mailing date of this decision to submit the drawing sheets as applicants maintain they were originally filed. This period is not extendable under 37 CFR 1.136(a).

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

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

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

As the drawings are to be part of the original application disclosure, the drawings may not be faxed. See § 1.6(d)(3).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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In re Application of :
Aljuri et al. : DECISION ON PETITION
Application No. 11/296,951 :
Filed: December 7, 2005 :
Atty Docket No.017534-002820US:

This is in response to the RESPONSE TO DECISION ON PETITION filed July 17, 2006, which is treated as a renewed request that the above-identified application be accorded a filing date of December 7, 2005 with figures 27-29 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on December 7, 2005. In response, to the "Notice of Omitted Item(s) in a Nonprovisional Application," mailed January 13, 2006, applicants filed the initial petition on March 6, 2006, asserting that figures 27-29 were deposited in the U.S. Patent and Trademark Office as part of the 31 sheets of drawings that were filed on December 7, 2005.

However, by decision mailed June 26, 2006, the petition was dismissed. Applicants' evidence was persuasive. Unfortunately, the petition did not include copies of the drawing sheets containing figures 27-29 as applicants maintain they were originally filed on December 7, 2005.

On instant renewed petition, applicants provided copies of figures 27-29 as originally filed with the application on December 7, 2005. It is noted that the petition references the date of March 6, 2006, rather than December 7, 2005, with

stating the original date the drawings were originally filed. The undersigned takes this as a typographical error, inasmuch as, the replacement drawings (including replacement figures 27-29) were filed on March 6, 2006 and the drawings submitted on instant renewed petition are clearly not replacement drawings.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee paid March 6, 2006 is being refunded to Deposit Account No. 20-1430, as authorized.

The application is being returned to the Office of Initial Patent Examination (OIPE) for:

- reprocessing with a filing date of December 7, 2005, using the application papers received in the Office and presently accorded that date; and figures 27-29 re-supplied on petition filed July 17, 2006;

- indication in Office records, as appropriate, that the application as filed included 31 sheets of drawings; and

- processing of the response to Notice of Omitted Items filed March 6, 2006, including 31 sheets of replacement drawings.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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**CHARLES N.J. RUGGIERO**
**OHLANDT GREELEY RUGGIERO & PERLE**
**10TH FLOOR**
**ONE LANDMARK SQUARE**
**STAMFORD, CT 06901-2682**

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|---|---|---|
| In re Application of | : | |
| Richard David Gillespie et al | : | |
| Application No. 11/296,973 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0001508USU | : | 37 CFR 1.102(d) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(d), filed April 25, 2006, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/ADS or cancer.

The instant petition fails to meets the requirements of MPEP § 708.02(X). While the syringe assists in preventing the transmission of HIV/AIDS, the syringe does not contribute to the actual prevention of HIV/AIDS, such as vaccine. The contribution of the petitioner's invention, while beneficial, does not contribute to the diagnosis, treatment or prevention of HIV/AIDS.

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center Art Unit 3763 for action in its regular turn.

Denise Pothier for

David Bucci
Petitions Examiner
Office of Petitions

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SEP 14 2006

OFFICE OF PETITIONS

OHLANDT GREELEY RUGGERIO & PERLE
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

| | | |
|---|---|---|
| In re Application of | : | |
| GILLESPIE et al. | : | |
| Application No. 11/296,973 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0001508USU | : | 37 C.F.R. § 1.102(d) |
| | : | |

This is a decision on the renewed petition under 37 CFR 1.102(d), filed on June 20, 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 discussion of how the syringe contributes to the prevention of HIV/AIDs by preventing a HIV/AID infecting needle from inadvertently sticking another person due to the syringe's needle retraction feature. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

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 3763 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 14 2006

**OFFICE OF PETITIONS**

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

| | |
|---|---|
| In re Application of | : |
| Tilford, et al. | : DECISION ON PETITION |
| Application No. 11/296,976 | : |
| Filed: December 7, 2005 | : |
| Atty. Dkt. No.: MSFT- | : |
| 5453/314931.01 | : |

This decision is in response to the petition under 37 CFR 1.10(c) filed March 13, 2006.

Petitioners allege that the application was deposited in Express Mail Service on December 7, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. EV631243349US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 7, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on December 7, 2005.

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

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **December 7, 2005** and for issuance of a corrected filing receipt.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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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JUN 29 2010

OFFICE OF PETITIONS

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

| | |
|---|---|
| In re Patent No. 7,621,456 | : DECISION ON REQUEST |
| Michael Eilersen | : FOR |
| Issue Date: November 24, 2009 | : RECONSIDERATION OF |
| Application No. 11/296,991 | : PATENT TERM ADJUSTMENT |
| Filed: December 8, 2005 | : and |
| Atty Docket No. **6195.210-US** | : NOTICE OF INTENT TO ISSUE |
| | : CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on January 21, 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 eight hundred and forty-six (846) 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 and forty-six (846) days is **GRANTED**.

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

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and forty-six (846) days.**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,621,456 B2

DATED : Nov. 24, 2009

INVENTOR(S) : Eilersen

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 (614) days

Delete the phrase "by 614 days" and insert – by 846 days--

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**JACQUES M. DULIN, ESQ. DBA**
**INNOVATION LAW GROUP, LTD.**
**237 NORTH SEQUIM AVENUE**
**SEQUIM, WA 98382-3456**

**COPY MAILED**

MAY 0 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **CROOKSHANKS**, Rex J. | : | |
| Application No. 11/296,995 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **24623-001US-DIV** | : | FROM RECORD |
| | : | |

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 23, 2007.

The request is **NOT APPROVED.**

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

The 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, "applicant died and executrix is taking over all applications for the estate," does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LEAH CROOKSHANKS**
**1901 PASEO DEL SOL**
**PALO VERDES, CA 90274**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JACQUES M. DULIN, ESQ. DBA
INNOVATION LAW GROUP, LTD.
237 NORTH SEQUIM AVENUE
SEQUIM, WA 98382-3456

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SEP 2 6 2008

| | | |
|---|---|---|
| In re Application of | : | |
| CROOKSHANKS, Rex J. | : | |
| Application No. 11/296,995 | : | DECISION ON PETITION TO |
| Filed: December 7, 2005 | : | WITHDRAW FROM RECORD |
| Attorney Docket No. 24623-001US-DIV | : | |
| | : | |

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2008 and re-submitted September 3, 2008.

The request is APPROVED.

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

The request was signed by Jacques M. Dulin, the sole attorney of record. Jacques M. Dulin has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Rex J. Crookshanks at the address indicated below.

There is an outstanding Office action mailed August 6, 2008 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: REX J. CROOKSHANKS
1901 PASEO DEL DOL
PALO VERDES, CA 90274

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Joseph C. Boisvert | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7592651 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,009 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **729** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

| | | |
|---|---|---|
| In re Application of | : | |
| Kerry Dennis BROWN | : | |
| Application No. 11/297,014 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. PA3614US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 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 Karen Kaufman on behalf of all attorneys of record who are associated with Customer No. 22830.

All attorneys/agents associated with the Customer Number 22830 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 applicant at the address first copied below.

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: KERRY DENNIS BROWN
70 PALMER LANE
PORTOLA VALLEY, CA 94028

cc: GUNDERSON DETTMER STOUGH
VILLENEUVE FRANKLIN & HACHIGIAN, LLP
155 CONSTITUTION DRIVE
MENLO PARK, CA 94025

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/297,014 | 12/08/2005 | Kerry Dennis Brown | PA3614US |

**CONFIRMATION NO. 3514**

*OC000000023712246*

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 05/07/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2007.

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

---

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

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OFFICE OF PETITIONS

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

| | | |
|---|---|---|
| In re Application of | : | |
| Hongmei Zhang et al | : | |
| Application No. 11/297,057 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 10655.0042-00 | : | FROM RECORD |
| | : | |

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 28, 2009.

The request is **APPROVED**.

The request was signed by C. Larry O'Rourke on behalf of the practitioners who are associated with customer No. 22852.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Hongmei Zhang
1330 Rodney Drive
San Jose, CA 95118

cc: Haynes and Boone, LLP
IP Section
2323 Victory Avenue, Suite 700
Dallas, TX 75219

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/297,057 | 12/07/2005 | Hongmei Zhang | 10655.0042-00 |

**CONFIRMATION NO. 3097**

**POWER OF ATTORNEY NOTICE**

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

*OC000000038131878*

Date Mailed: 10/13/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/28/2009.

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

/idingle/

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/297,057 | 12/07/2005 | Hongmei Zhang | 10655.0042-00 |

**CONFIRMATION NO. 3097**

**POA ACCEPTANCE LETTER**

Hongmei Zhang
1330 Rodney Drive
San Jose, CA 95118

*OC000000038131949*

Date Mailed: 10/13/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/28/2009.

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.

/idingle/

---

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

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**ALLAN L. HARMS**
**2750 FIRST AVENUE NE, SUITE 420**
**CEDAR RAPIDS, IA 52402**

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JUL 22 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Shaun Lamar YODER, et al | : | |
| Application No. 11/297,098 | : | DECISION ON PETITION |
| Filed: December 8, 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 June 18, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorney of record was not appointed by Customer Number 23,882, the attorney was appointed as an individual.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SHAUN L. YODER
3336 320TH ST.
WELLMAN, IA 52356

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

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Ian Warwick Hunter | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7642096 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,107 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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| | | |
|---|---|---|
| In re Application of | : | |
| Riccio et al. | : | |
| Application No. 11/297,113 | : | Decision According Status |
| Filed: December 8, 2005 | : | Under 37 CFR 1.47(a) |
| Attorney Docket No. 86123 [SCEA05005US01] | : | |
| For: Position/Player Specific Game Play | : | |
| (PSG) Scheme for Computer | : | |
| Entertainment Systems | : | |

This is a decision on the petition under 37 CFR 1.47(a), filed May 18, 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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:

**DATE** :

**TO SPE OF** : ART UNIT

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

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

**Comments:**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:**

**DATE** :3/19/2010 11/297,142

**TO SPE OF** : ART UNIT 1661

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

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

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

**Comments:**

ANNE MARIE GRUNBERG
SUPERVISORY PATENT EXAMINER

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

| | | |
|---|---|---|
| *In re* Patent No. BERRY, JAMES BRYAN | : | |
| Issue Date: January 22, 2009 | : | **DECISION GRANTING** |
| Appl No.: 11/297,142 | : | **PETITION** |
| Filed: December 08, 2005 | : | *37 CFR 1.324* |
| For: Correction of Inventors' Names | : | |
| | : | |
| | : | |
| | : | |

This is a decision on the petition filed February 12, 2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Anne Marie Grunberg
Supervisory Patent Examiner
Art Unit 1661
Technology Center 1600

BREINER & BREINER, L.L.C.
P.O. BOX 320160
ALEXANDRIA, VA 22320-0160

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:

**DATE** :

**TO SPE OF** : ART UNIT

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

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

**Comments:**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:**

**DATE** : 3/19/2010

11/297,143

**TO SPE OF** : ART UNIT 1661

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

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

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

**Comments:**

ANNE MARIE GRUNBERG
SUPERVISORY PATENT EXAMINER

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.go

| | | |
|---|---|---|
| *In re* Patent No. BERRY, JAMES BRYAN | : | |
| Issue Date: January 15, 2008 | : | **DECISION GRANTING** |
| Appl No.: 11/297,143 | : | **PETITION** |
| Filed: December 08, 2005 | : | *37 CFR 1.324* |
| For: Correction of Inventors' Names | : | |
| | : | |
| | : | |
| | : | |

This is a decision on the petition filed February 12, 2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Anne Marie Grunberg
Supervisory Patent Examiner
Art Unit 1661
Patent Examining Group 1600

BREINER & BREINER, L.L.C.
P.O. BOX 320160
ALEXANDRIA, VA 22320-0160

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 |
|---|---|---|---|---|---|---|---|
| 11/297,145 | 12/08/2005 | 2121 | 1000 | NORT 69311 | 4 | 11 | 1 |

**CONFIRMATION NO. 2630**

**CORRECTED FILING RECEIPT**

*OC000000017994979*

Robert P. Lenart
Pietragallo, Bosick & Gordon LLP
One Oxford Centre, 38th Floor
301 Grant Street
Pittsburgh, PA 15219

Date Mailed: 02/06/2006

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

**Applicant(s)**

Omar Aboutalib, Diamond Bar, CA;

**Assignment For Published Patent Application**

Northrop Grumman Corporation, Los Angeles, CA

**Power of Attorney:** The patent practitioners associated with Customer Number **29694**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/19/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/297,145**

**Projected Publication Date:** 06/14/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Information fusion predictor

**Preliminary Class**

706

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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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Alexandria, VA 22313-1450
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**CHARLES N.J. RUGGIERO**
**OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.**
**10TH FLOOR**
**ONE LANDMARK SQUARE**
**STAMFORD, CT 06901-2682**

**COPY MAILED**

FEB 17 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Gillespie et al. | : | |
| Application No. 11/297,159 | : | ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. 0001508USU1 | : | |

This is a decision on the petition under 37 CFR 1.102(d), filed December 8, 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 is accompanied by a statement by the Assignee, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 3763 for action on the merits commensurate with this decision.

David Bucci
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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MAILED

AUG 12 2009

OFFICE OF PETITIONS

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

| | | |
|---|---|---|
| In re Application of | : | |
| Gillies et al. | : | ON APPLICATION FOR |
| Application No. 11/297,166 | : | PATENT TERM ADJUSTMENT |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. LEX-035 | : | |

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed February 26, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred seventy-four (374) days, not one hundred ninety-one (191) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Docket No.: LEX-035
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Stephen D. Gillies et al.

Application No.: 11/297,166

Confirmation No.: 2845

Filed: December 8, 2005

Art Unit: 1647

Title: IL-7 VARIANTS WITH REDUCED IMMUNOGENICITY

Examiner: S. H. Shafer

**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) AND 37 C.F.R. § 1.705(b)**

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

Sir:

This is a request for reconsideration of the patent term adjustment indicated in the Notice of Allowance of November 28, 2008, for the above-referenced patent application. A copy of the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) is attached and labeled "Exhibit 1."

In accordance with 37 C.F.R. § 1.705(b)(1), Applicants enclose the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiency and credit any overpayment to our Deposit Account No. 07-1700, under Order No. LEX-035.

Applicants provide the following statement of facts in accordance with 37 C.F.R. § 1.705(b)(2):

37 C.F.R. § 1.705(b)(2)(i)

1. Applicants submit that the correct patent term adjustment under 35 U.S.C. § 154(b), if the patent issues on the date which is the Tuesday that is before the date that is 28 weeks after the mailing date of the Notice of Allowance, will be **374** days. The basis for the adjustment is as follows:

Under 37 C.F.R. § 1.702(a)(1), the USPTO failed to mail at least one of a notification under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151 before the expiration of fourteen months after the date on which the application was filed.

Under 37 C.F.R. § 1.702(b), the USPTO failed to issue a patent within three years of the actual filing date of the application.

37 C.F.R. § 1.705(b)(2)(ii), 1.703(a), and 1.703(b)

2. The relevant dates under 37 C.F.R. § 1.703(a)(1) specifying the period of adjustment under 37 C.F.R. § 1.702(a)(1) and the relevant dates under 37 C.F.R. § 1.703(b) specifying the period of adjustment under 37 C.F.R. § 1.702(b) are as follows:

A. Adjustment under 37 C.F.R. § 1.702(a)(1)

| | |
|---|---|
| i. Filing date of this application: | December 8, 2005 |
| ii. Day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a): | February 9, 2007 |
| iii. Date of mailing of first action under 35 U.S.C. § 132: | October 16, 2007 |
| The number of days in the period beginning on February 9, 2007, and ending on October 16, 2007, is | **250 days.** |

B. Projected adjustment under 37 C.F.R. § 1.702(b)

| | |
|---|---|
| i. Filing date of this application: | December 8, 2005 |

ii. Day after the date that is three years after the actual filing date of the application: December 9, 2008

iii. Mailing date of the Notice of Allowance: November 28, 2008

iv. Projected patent issue date which is the Tuesday that is before the date that is 28 weeks after the mailing date of the Notice of Allowance: June 9, 2009

The number of days in the period beginning on December 9, 2008, and ending on June 9, 2009, is **183 days**

37 C.F.R. § 1.705(b)(2)(iii)

3. Applicants submit the patent to be issued is not subject to a terminal disclaimer.

37 C.F.R. § 1.705(b)(2)(iv)

4. Applicants believe that one circumstance may have constituted a "failure to engage in reasonable efforts to conclude processing or examination" of this application as set forth in 37 C.F.R. § 1.704. The circumstance is as follows:

Reduction of Period of Patent Term Adjustment under 37 C.F.R. § 1.704(b)

i. Date the Non-Final Rejection was mailed to the Applicant: March 24, 2008

ii. Day after the date that is three months from the mailing date of the Non-Final Rejection: June 25, 2008

iii. Date the reply to the Non-Final Rejection was filed: August 22, 2008

The number of days in the period beginning on June 25, 2008, and ending on August 22, 2008, is **59 days**

Applicants submit that all other replies to any notice or action by the USPTO were filed within the three-month period set forth in 37 C.F.R. § 1.704(b).

37 C.F.R. § 1.705(b)(2)(ii) and 1.703(f)

5. As the adjustment under 37 C.F.R. § 1.702(a)(1), which begins from February 9, 2007, and ends on October 16, 2007, and the predicted adjustment under 37 C.F.R. § 1.702(b), which begins from December 9, 2008, and ends on June 9, 2009, do not overlap, the predicted adjustment as specified in 37 C.F.R. § 1.703(f) to which the patent is entitled will be the period of 250 days calculated under 37 C.F.R. § 1.703(a)(1), plus the predicted period of 183 days calculated under 37 C.F.R. § 1.703(b), less the 59 day period calculated under 37 C.F.R. § 1.704.

Accordingly, Applicants submit that the patent is predicted to be entitled to a patent term adjustment of 250 + 183 – 59 = **374** days, running from the expiration date of the patent as set forth in 35 U.S.C. § 154(a)(2).

If for any reason, this Petition is found not to comply with the requirements of 37 C.F.R. § 1.705, or is otherwise found improper, please call the undersigned attorney.

Respectfully submitted,

Date: February 26, 2009

/Brian A. Fairchild/
Brian A. Fairchild
Reg. No. 48,645
Attorney for the Applicants
Goodwin Procter LLP
Exchange Place
Boston, Massachusetts 02109

Tel. No.: (617) 570-1963
Fax No.: (617) 570-1231
LIBC/3515100.1

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEP 30 2009

**OFFICE OF PETITIONS**

Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge NJ 07095

| | |
|---|---|
| In re Application of | |
| John Martin | |
| Application No. 11/297,173 | DECISION ON PETITION |
| Filed: December 8, 2005 | TO WITHDRAW |
| Attorney Docket No. 662-2 | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 25, 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 Jeffrey I. Kaplan on behalf of all attorneys of record who are associated with Customer No. 83336.

All attorneys/agents associated with the Customer No. 83336 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 John Martin at the address list listed in the request.

There is an outstanding Office action mailed July 8, 2009, 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: John Martin
Simplex Knowledge Company
4057 Highway 9 North, #385
Howell, NJ 07731

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 |
|---|---|---|---|
| 11/297,173 | 12/08/2005 | John Martin | 662-2 |

**CONFIRMATION NO. 2594**

**POWER OF ATTORNEY NOTICE**

83336
Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge, NJ 07095

*OC000000038045709*

Date Mailed: 09/30/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2009.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Adrian Aeschlimann | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7573161 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,174 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **530** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Herman H. Bains
6101 Tracy Ave
Minneapolis MN 55436

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MAR 12 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Harry J. Rajamannan | : | |
| Application No. 11/297,178 | : | DECISION ON PETITION |
| Filing or 371(c) Date: 12/09/2005 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 200512AG | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 25, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1657 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/297,178 | 12/09/2005 | 1657 | 500 | 200512AG | 17 | 2 |

Herman H. Bains
6101 Tracy Ave
Minneapolis, MN 55436

**CONFIRMATION NO. 3990**
**CORRECTED FILING RECEIPT**
*OC000000022838347*
*OC000000022838347*

Date Mailed: 03/09/2007

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

**Applicant(s)**

A. Harry J. Rajamannan, Minneapolis, MN;

**Power of Attorney:**

Herman Bains--19330

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/448,828 05/30/2003 ABN
and is a CIP of 10/448,831 05/30/2003 ABN
and is a CIP of 10/448,830 05/30/2003 ABN
and is a CIP of 10/448,829 05/30/2003 ABN

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/13/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/297,178**

**Projected Publication Date:** 06/21/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Systemic inducer composition for plants

**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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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Bryon S. Nordquist | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593971 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,189 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **484** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

**Applicant** : Bryon S. Nordquist
**Patent Number** : 7593971
**Issue Date** : 09/22/2009
**Application No** : 11/297,189
**Filed** : 12/07/2005

: 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 **539** 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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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Charles H. Wallace | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7572557 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,209 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **841** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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AUG 0 8 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Hans L. MELGAARD et al. | : | |
| Application No. 11/297,213 | : | DECISION ON PETITION |
| Filed: December 08, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 19571.84.1 | : | |

This is a decision on the petition, filed April 15, 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 July 11, 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 November 13, 2008 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3742 for examination in due course.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/297,213 | 12/08/2005 | Hans L. Melgaard | 19571.84.1 |

**CONFIRMATION NO. 2654**

22859
INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS, MN 55402

**NONPUBLICATION RESCISSION LETTER**

*OC000000031455563*

Date Mailed: 08/07/2008

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

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

The projected publication date is 11/13/2008.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[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".

/mreason/

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

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United States Patent and Trademark Office
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LAW OFFICE OF DONALD D. MONDUL
6631 LOVINGTON DRIVE
DALLAS TX 75252-2519

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Meister, et al. :
Application No. 11/297,218 :
Filed: December 8, 2005 : ON PETITION
Attorney Docket No. DDM05-019 :
For: APPARATUS FOR PROVIDING COUPONS :
IN COOPERATION WITH OPERATION OF A :
COMPANION DEVICE :

This is a decision on the petition under 37 CFR 1.181(a), filed November 27, 2007 to withdraw the holding of abandonment in the above-identified application.

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

Any reconsideration petition 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 Office contends that the above-identified application became abandoned for failure to timely submit a reply to the February 22, 2007 non-final Office action, which set an extendable three month period for reply. No extension of time or reply being received, the Office considered this application abandoned on May 23, 2007. A Notice of Abandonment was mailed on September 20, 2007.

Petitioners assert that the February 22, 2007 non-final Office action was not received in practitioner's office. Petitioners argue that the application is not really abandoned because the Office mailed the Office action to an incorrect address.

A review of the record indicates no irregularity in the mailing of the February 22, 2007 non-final Office action.

A review of oath/declaration submitted with the original application papers reveals that the Office was **expressly directed** to send correspondence to:

LAW OFFICE OF DONALD D. MONDUL
6631 LOVINGTON DRIVE
DALLAS TX 75252-2519

The above address is precisely where the February 22, 2007 non-final Office action was mailed.

The Office accepts the fact that on January 19, 2006, the Office mailed a Notice of Customer Number Record Change to practitioner that indicated that the mailing address of record for Customer Number 30137 had been changed to:

LAW OFFICE OF DONALD D. MONDUL
3060 BONSAI DRIVE
PLANO TX 75093

However, the above-identified application was not and is not affiliated with Customer Number 30137.

Thus, this application became abandoned because practitioner did not inform the Office of a current correspondence address for this application.

An applicant is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioner to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Petitioners are strongly encouraged to file a petition to revive under the unintentional standard of 137(b).

A courtesy copy of this decision will be mailed to the address listed on the petition. However, the address of record for this application will remain the Dallas, TX address until proper documents are submitted.

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

CC: LAW OFFICE OF DONALD D. MONDUL
3060 BONSAI DRIVE
PLANO TX 75093

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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LAW OFFICE OF DONALD D. MONDUL
3060 Bonsai Drive
Plano TX 75093

**COPY MAILED**

JUN 23 2008

**OFFICE OF PETITIONS**

In re Application of :
Meister, et al. :
Application No. 11/297,218 :
Filed: December 8, 2005 :
Attorney Docket No. DDM05-019 :
For: APPARATUS FOR PROVIDING COUPONS :
IN COOPERATION WITH OPERATION OF A :
COMPANION DEVICE :

ON PETITION

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

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

The above-identified application became abandoned for failure to timely submit a reply to the February 22, 2007 non-final Office action, which set an extendable three month period for reply. No extension of time or reply being received, the Office considered this application abandoned on May 23, 2007. A Notice of Abandonment was mailed on September 20, 2007.

Applicants have submitted an amendment in reply to the February 22, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 22, 2007 non-final Office action, and the $770.00 petition fee.

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

After the mailing of this decision, the application will be returned to Technology Center AU 3651 for consideration of the amendment filed on February 5, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/297,222 | 12/08/2005 | 2643 | 565 | 36499 | 2 | 17 | 2 |

**CONFIRMATION NO. 2633**

**CORRECTED FILING RECEIPT**

*OC000000018086866*

23589
HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY, MO 64108

Date Mailed: 02/23/2006

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

**Applicant(s)**

Christopher Combest, Leawood, KS;
Ken Hecht, Jacksonville, FL;

**Power of Attorney:** The patent practitioners associated with Customer Number **23589**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/12/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/297,222**

**Projected Publication Date:** 06/14/2007

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Expandable speaker enclosure

**Preliminary Class**

381

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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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STAMFORD, CT 06901-2682

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OFFICE OF PETITIONS

In re Application of
Richard David Gillespie
Application No. 11/297,225
Filed: December 8, 2005
Attorney Docket No. 0001508USU2

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 C.F.R. § 1.102(d)

This is a decision on the petition under 37 CFR 1.102(d), filed on April 25, 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 couplings for auto-injection devices that include a self-retracting needle in at least some claimed embodiments. The instant application contributes to the prevention of HIV/AIDS by mitigating instances of inadvertent needle sticks. 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 3763 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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**ORRICK HERRINGTON & SUTCLIFFE**
**IP PROSECUTION DEPARTMENT**
**4 PARK PLAZA, SUITE 1600**
**IRVINE, CA 92614-2558**

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| | | |
|---|---|---|
| In re Application of<br>J. Stuart Cumming<br>Application No. 11/297,232<br>Filed: December 7, 2005<br>Attorney Docket No. 13533.4058 | :<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO MAKE SPECIAL UNDER<br>37 CFR 1.102(c)(1) |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 27, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The petition includes a declaration by J. Stuart Cumming attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center AU 3738 for action on the merits commensurate with this decision.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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**IRVINE, CA 92614-2558**

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| | | |
|---|---|---|
| In re Application of | : | |
| J. Stuart Cumming et al | : | |
| Application No. 11/297,233 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 13533.4062 | : | 37 CFR 1.102(c)(1) |
| | : | |

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

The petition is **GRANTED**.

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

The petition includes a declaration by J. Stuart Cumming et al attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center AU 3738 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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

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| | | |
|---|---|---|
| In re Application of | : | |
| Marcos A. Barreto, et al. | : | |
| Application No. 11/297,235 | : | DECISION GRANTING PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 200505577-1 | : | |

This is a decision on the petition, filed August 14, 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**, *nunc pro tunc.*

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114 and information disclosure statement on August 14, 2008. Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted. Therefore, the Technology Center was without authority to act further in the case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

This application is being referred back to the Technology Center Art Unit 1793 for examination of the information disclosure statement filed with the request for continued examination in due course.

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

April M. Wise
Petitions Examiner
Office of Petitions

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GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : W. Thomas Dixon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7610077 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,263 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/297,264 | 12/07/2005 | Klein S. Gilhousen | PA024C1C2C1D2C1 | 3612 |

23696 7590 01/19/2010
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

| EXAMINER |
|---|
| TRAN, KHAI |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/19/2010 | 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):

us-docketing@qualcomm.com
kascanla@qualcomm.com
nanm@qualcomm.com

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JAN 18 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of:
GILHOUSEN, KLEIN S. et al
Application Serial No.: 11/297,264
Filed: December 07, 2005
For: SYSTEM AND METHOD FOR GENERATING SIGNAL WAVEFORMS IN A CDMA CELLULAR TELEPHONE SYSTEM

DECISION
ON PETITION

This is a decision on the petition requesting withdrawal of the final action, filed October 26, 2009, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed July 10, 2009 final and requests withdrawal of finality of the Office action.

## PERTINENT BACKGROUND INFORMATION

A Request for Continued Examination was filed on April 17, 2009.

On July 10, 2009, the Examiner issued a first action Final Office action rejecting all pending claims 1-12 under 35 USC 103 over Wheatley, III in view of Scharla-Nielsen.

On October 26, 2009, a petition to withdraw the holding of finality of the final rejection dated July 10, 2009 was filed. Along with the instant petition, applicant also filed an amendment after final rejection. The petition argued, in the Final rejection of July 10, 2009 the examiner had withdrawn the previous rejection, prior to the filing of the RCE, under 35 USC 102 in favor of a new ground of rejection, after the filing of the RCE, under 35 USC 103.

On December 01, 2009, the Examiner issued an Advisory action indicating the amendment filed October 26, 2009 will not be entered because it raised new issues that require further consideration and/or search.

On December 08, 2009, a second RCE was filed and processed.

On December 31, 2009, the Examiner issued a Notice of Allowance.

## DECISION

The issue of whether or not the examiner properly made final the first office action after an RCE became moot with applicant's filing of a second RCE on December 08, 2009. Accordingly, the RCE filed December 08, 2009 has been processed.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.**

The application has been forwarded to the Office of Publications for post allowance processing.

Mark R. Powell
Director
Technology Center 2600
Communications

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MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Christopher Jensen Read | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7596673 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,271 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **832** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SIDLEY AUSTIN LLP
ATTN: DC PATENT DOCKETING
1501 K STREET, NW
WASHINGTON DC 20005

Applicant: Adams et al.
Appl. No.: 11/297,326
Filing Date: December 9, 2005
Title: APO-2 RECEPTOR
Attorney Docket No.: 22338-00911
Pub. No.: US 2006/0251647 A1
Pub. Date: November 9, 2006

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OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 3, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on page 14 of the publication wherein some of the chemical diagrams are placed after the wrong paragraph.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the page 14 of the publication wherein some of the chemical diagrams are placed after the wrong paragraph may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error does not affect the understanding of the application because the diagrams were correctly published in the parent application application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error is also not a material mistake because the application is a divisional of U.S. Application No. 10/423,448, which is a continuation of 10/288,917, which is published as a pre-grant publication, and which is incorporated by reference. Since, the parent application is now published, and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

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.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

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1501 K STREET, NW
WASHINGTON, DC 20005

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Camellia W. Adams | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595046 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,327 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **493** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ATTN: DC PATENT DOCKETING
1501 K STREET, NW
WASHINGTON, DC 20005

Mail Date: 05/18/2010

**Applicant** : Camellia W. Adams
**Patent Number** : 7595046
**Issue Date** : 09/29/2009
**Application No** : 11/297,327
**Filed** : 12/09/2005

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

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

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

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert E. Bushnell
1522 K Street NW, Suite 300
Washington DC 20005-1202

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of :
**CHOI**, et al. :
Application No. 11/297,348 : DECISION GRANTING PETITION
Filed: December 9, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P57780** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

***Petitioner is advised that the issue fee paid on February 1, 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 2879 for processing of the request for continued examination under 37 CFR 1.114.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW, SUITE 600
WASHINGTON, DC 20006-1004

**MAILED**

MAR 05 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jung –Hyuck Choi et al | : | |
| Application No. 11/297,348 | : | DECISION DISMISSING PETITION |
| Filed: December 9, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. P57780 | : | |

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

The petition is **DISMISSED AS MOOT.**

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue.

In this case, the issue date was March 3, 2009. The petition was not received in the Office of Petitions for consideration until March 5, 2009. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

## REQUEST FOR PATENT FEE REFUND

1 Date of Request: 03/05/09

2 Serial/Patent # 11/297,348

| | 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT |
|---|---|---|---|---|
| | Filing | | | $ |
| | Amendment | | | $ |
| | Extension of Time | | | $ |
| | Notice of Appeal/Appeal | | | $ |
| X | Petition 1464 | | 03/02/09 | $ 130.00 |
| | Issue | | | $ |
| | Cert of Correction/Terminal Disc. | | | $ |
| | Maintenance | | | $ |
| | Assignment | | | $ |
| X | Other 1801 | | 03/02/09 | $ 810.00 |

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

| | |
|---|---|
| | Treasury Check |
| X | Credit Deposit A/C #: |

9 0 2 -- 4 9 4 3

10 REASON:

| | |
|---|---|
| | Overpayment |
| | Duplicate Payment |
| X | No Fee Due (Explanation): |

The petition is dismissed as moot. The fees are unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Irvin Dingle TITLE: Paralegal

SIGNATURE: /Irvin Dingle/ PHONE: 2-3210

OFFICE: Petitions

**********

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: _____ DATE: _____

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*

**Office of Finance**
**Refund Branch**
**Crystal Park One, Room 802B**

FORM PTO 1577
(01/90)

OIPE IAP97
MAR 0 2 2009
PATENT & TRADEMARK OFFICE

PATENT
P57780

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

JUNG-HYUCK CHOI *et al.*

| | | | |
|---|---|---|---|
| Serial No.: | 11/297,348 | Examiner: | SCHOOLMAN, BRIAN T. |
| Filed: | 9 December 2005 | Art Unit: | 2112 |
| For: | PLASMA DISPLAY PANEL AND METHOD OF MANUFACTURING THE SAME | | |

## PETITION UNDER 37 C.F.R. §1.313(c)(2)

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

Sir:

Pursuant to 37 C.F.R. §1.313(c)(2) and 37 CFR §1.97(a), Applicant respectfully petitions the Commissioner to withdraw the above-captioned Application from issue in order to enable the Examiner to consider Applicant's simultaneously filed Request for Continued Examination pursuant 37 C.F.R. §1.114 and Applicant's Information Disclosure Statement.

03/03/2009 HDEMESS1 00000048 11297348
01 FC:1464 130.00 OP

Folio: P57780
Date: 2 March 2009
I.D.: REB/rd

## STATEMENT OF FACTS

1. Applicant **has paid the Issue Fee** due on 20 January 2009.

2. Today Applicant is filing an Information Disclosure Statement, PTO-1449, four(4) Patent references from Japan which were cited in the Japanese Office action issued on the 10 February 2009 in Applicant's co-pending Application No. 2005-357793 filed in the Japanese Patent Office, and consequently, the fee of $180.00 is ***not*** incurred under 37 C.F.R. §1.97(c)(2) and §1.17(p).

3. Pursuant to 37 C.F.R. §1.313(c)(2), applicant is today simultaneously filing (*i*) this Petition To Withdrawal this Application from Issue under 37 C.F.R. §1.313(c)(2), (*ii*) the incurred fee under 37 CFR §1.17(h) of $130.00 , (*iii*) a Request for Continued Examination under 37 CFR §1.114(a)(1), (*iv*) the incurred fee under 37 CFR §1.17(e) of $810.00, and (*v*) an Information Disclosure Statement. A total fee of **$940.00** is incurred by submission of the afore-mentioned documents.

4. No other fee is believed to be due; should other fee be due however, the Director is authorized to charge Deposit Account No. 02-4943 and to so notify Applicant's undersigned attorney.

## RELIEF REQUESTED

The Commissioner is therefore, respectfully requested to:

A. Withdraw the above-captioned application from issue;

B. Accept the accompanying Request for Continued Examination;

C. Provide the Examiner with the complete copy of applicant's Information Disclosure Statement;

D. Allow the Examiner to consider the Information Disclosure Statement; and

E. Grant such other and further relief as justice may require.

Respectfully submitted,

Robert E. Bushnell
Attorney for the Applicant
Registration No.: 27,774

2029 "K" Street N. W., Suite 600
Washington, D.C. 20006
(202) 408-9040

Enclosures:
(*i*) this Petition To Withdrawal this Application from Issue under 37 C.F.R. §1.313(c)(2),
(*ii*) the incurred fee under 37 CFR §1.17(h) of $130.00,
(*iii*) a Request for Continued Examination under 37 CFR §1.114(a)(1),
(*iv*) the incurred fee under 37 CFR §1.17(e) of $810.00,
(*v*) Information Disclosure Statement

Folio:P57780
Date:3/2/09
I.D.: REB/rd

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PATENT & TRADEMARK OFFICE

PTO/SB/30 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

# Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

| | |
|---|---|
| Application Number | 11/297,348 |
| Filing Date | 9 December 2005 |
| First Named Inventor | JUNG-HYUCK CHOI |
| Art Unit | 2112 |
| Examiner Name | SCHOOLMAN, BRIAN T. |
| Attorney Docket Number | P57780 |

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

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

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

b. ☑ Enclosed

i. ☐ Amendment/Reply

ii. ☐ Affidavit(s)/ Declaration(s)

iii. ☑ Information Disclosure Statement (IDS)

iv. ☑ Other Petition Under CFR 1.313(c)(2)

2. Miscellaneous

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

b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☑ The Director is hereby authorized to charge the following fees, or credit any overpayment to Deposit Account No. 02-4943, *should* the check(s) become lost, be deficient, or should other fees be incurred.

08/03/2007 HDEMESS1 00000047 11297348
01 FC:1801 810.00 OP

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

b. ☑ Check in the amount of $ 940.00 (Check #57097) enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

***SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED***

| | | | |
|---|---|---|---|
| Signature | [signature] | Date | 24 March 2008 |
| Name (Print/Type) | Robert E. Bushnell | Registration No. | 27,774 |

***CERTIFICATE OF MAILING OR TRANSMISSION***

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

| | | | |
|---|---|---|---|
| Signature | | | |
| Name (Print/Type) | | Date | |

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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

**SHOOK, HARDY & BACON L.L.P.**
**(MICROSOFT CORPORATION)**
**INTELLECTUAL PROPERTY DEPARTMENT**
**2555 GRAND BOULEVARD**
**KANSAS CITY MO 64108-2613**

COPY MAILED
JAN 27 2010

| | | |
|---|---|---|
| In re Application of | : | |
| David Braun et al | : | |
| Application No. 11/297,381 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. MFCP.124297 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 26, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2621 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

/KOC/
Karen Creasy
Petition Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/297,381 | 12/09/2005 | 2621 | 1000 | MFCP.124297 | 14 | 2 |

**CONFIRMATION NO. 3889**

**CORRECTED FILING RECEIPT**

*OC000000039850453*

45809
SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Date Mailed: 01/26/2010

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)**

David A. Braun, Redmond, WA;
Hugh C. Vidos, Sammamish, WA;
Matthew Goyer, Seattle, WA;
Kort D. Sands, Seattle, WA;

**Assignment For Published Patent Application**

Microsoft Corporation, Redmond, WA

**Power of Attorney:** The patent practitioners associated with Customer Number 45809

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/707,153 08/11/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/19/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/297,381**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

DVD changer UX

**Preliminary Class**

386

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

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

SEAGATE TECHNOLOGY LLC
c/o MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Jianwei Liu, et al. :
Application No.: 11/297,384 :
Filed: December 9, 2005 :
Attorney Docket No.: 050103-0638 :

ON PETITION

This is a decision on the petition, filed May 11, 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 not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Thomas M. Catale appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Catale 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. Catale, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The 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 2, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries 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 1794 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: THOMAS M. CATALE
MURABITO, HAO & BARNES, LLP
2 NORTH MARKET STREET
3RD FLOOR
SAN JOSE, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**PATWRITE LLC**
**408 W. MAIN ST.**
**MARSHALLTOWN IA 50158-5759**

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SEP 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **LAI,** Kuo-Yen | : | |
| Application No. 11/297,401 | : | DECISION ON PETITION |
| Filed: December 09, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **0701075-002** | : | 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 June 26, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BIKETECH CO., LTD**
**12, FUH TEH 1 ROAD**
**266 LANE, 37 ALLEY**
**HSICHIH, TAIPEI HSIEN**
**TAIWAN**

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SHOOK, HARDY & BACON, LLP
(C/O MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

**COPY MAILED**

DEC 2 9 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of<br>David A. Braun, et al.<br>Application No. 11/297,404<br>Filed: December 9, 2005<br>Attorney Docket No. MFCP.124296 A | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>UNDER 37 CFR 1.78(a)(6) |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 20, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. 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 2627 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.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/297,404 | 12/09/2005 | 2627 | 1000 | MFCP.124296 A | 18 | 2 |

**CONFIRMATION NO. 4027**

**CORRECTED FILING RECEIPT**

45809
SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

*OC000000039378479*

Date Mailed: 12/28/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

David A. Braun, Redmond, WA;
Hugh C. Vidos, Sammamish, WA;
Matthew Goyer, Seattle, WA;

**Assignment For Published Patent Application**

Microsoft Corporation, Redmond, WA

**Power of Attorney:** The patent practitioners associated with Customer Number 45809

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/707,153 08/11/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/17/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/297,404**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

DVD CHANGER API'S

**Preliminary Class**

369

## 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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

| | | |
|---|---|---|
| **Applicant** | : Shuji Mizokuchi | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663182 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,406 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **828** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:20081124

**DATE** : November 24, 2008

**TO SPE OF** : ART UNIT 2826

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7394101 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

**Comments:**

/SUE A PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/297,462 | 12/09/2005 | Akihiro Goto | Q90099 | 2492 |

23373 7590 07/08/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER |
|---|
| EVANS, GEOFFREY S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3742 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/08/2010 | 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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20037

In re Application of: Akihiro Goto :
Appl. No.: 11/297,462 : DECISION ON PETITION
Filed: 12/09/2205 :
For: ELECTRODE FOR DISCHARGE SURFACE TREATMENT AND METHOD OF EVALUATING THE SAME, AND DISCHARGE-SURFACE TREATING METHOD :

This is a decision on the petition filed on 9 December 2005 by which petitioners request acceptance of color photographs under 37 C.F.R. Section 1.84. The petition is considered pursuant to 37 CFR 1.184(a)(2), and the petition fee under 37 CFR 1.17(h) has been paid.

The petition is DENIED.

Review of the application and of the claims shows that Applicant has not included with the petition a paragraph explaining why the color drawings are necessary. Additionally Applicant has not submitted an amendment to the specification to insert the following language as the first paragraph of the brief description of the drawings:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawings will be provided by the Office upon request and payment of the necessary fee.

PETITION Denied.

/Geoffrey S Evans/
Primary Examiner, Art Unit 3742

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OFFICE OF PETITIONS

**FITZPATRICK CELLA HARPER & SCINTO**
**30 ROCKEFELLER PLAZA**
**NEW YORK NY 10112**

In re Application of

**QIU,** Xiao-Qing
Application No. 11/297,464
Filed: December 09, 2005
Attorney Docket No. **03440.000100**

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 07, 2007.

The request is **APPROVED**.

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

The request was signed by John D. Carlin on behalf of all attorneys of record who are associated with customer No. 05514. 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 Xiao-Qing Qiu 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DR. XIAO-QING QIU**
**WEST CHINA HOSPITAL**
**SICHUAN UNIVERSITY**
**NO. 37 GUOXUEXING, CHENGDU**
**SICHUAN, CHINA 610041**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/297,464 | 12/09/2005 | Xiao-Qing Qiu | 03440.000100. |

**CONFIRMATION NO. 2486**

*OC000000023702616*

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Date Mailed: 05/04/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2007.

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

---

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Matthew Shedlov | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7589297 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,499 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **881** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Stephen R. Greiner, Esquire
GREINER LAW OFFICES, P.C.
Suite 110
6701 Democracy Blvd.
Bethesda, MD 20817

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JAN 0 9 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of Park | : | |
| Application No. 11/297,503 | : | Decision on Petition |
| Filing Date: December 9, 2005 | : | |
| Attorney Docket No. 3978.01 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2008, to revive the above-identified application.

The petition is **granted**.

On October 9, 2007, the Office mailed a non-final Office action including a requirement for restriction/election which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Absent proper payment for an extension of time, a reply was due on or before, November 9, 2007.

Petitioner filed a reply and payment for a two-month extension of time on February 15, 2008. The reply and payment for a two-month extension of time were untimely. The reply was not entered. Payment for a two-month extension of time may not be accepted by the Office after the two-month time period has actually expired. Therefore, the Office has scheduled a refund of the $230.

Since a reply was not timely filed in response to the non-final Office action and an extension of time was not obtained, the application became abandoned on November 10, 2007.

A Notice of Abandonment was mailed July 28, 2008.

The instant petition requests revival of the application.

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,

(2) the petition fee,

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As for item (1), petitioner submitted a reply to the non-final Office action on February 15, 2008.

As for item (2), petitioner has submitted the petition fee of $770.

As for item (3), 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 is unintentional. However, the petition indicates petitioner believes the date of abandonment was January 10, 2008, even though the date was actually November 10, 2007. The Office will interpret the statement to apply to the time period from November 10, 2007, to January 10, 2007. If the entire delay from the date of abandonment, November 10, 2007, until the date the petition was filed, August 13, 2008, was not unintentional, petitioner must notify the Office.

As for item (4), a terminal disclaimer is not required.

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 3733 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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**Halliburton Energy Services, Inc.**
**2600 South 2nd Street**
**Duncan, OK 73536-0440**

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OCT 17 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Michael L. Fripp | : | |
| Application No. 11/297,513 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. 2003-IP-011000U1 | : | |

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed February 9, 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 March 13, 2007. A Notice of Abandonment was mailed on September 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 and election, (2) the petition fee of $1,500.00, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3676 for appropriate action by the Examiner in the normal course of business on the reply received September 17, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Todd E. Albanesi
Crutsinger & Booth, LLC
1601 Elm Street, Suite 1950
Dallas, TX 75201-4744

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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| | | |
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| In re Application of | : | |
| Choi, et al. | : | |
| Application No. 11/297,517 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 51876.P991 | : | |

This is a decision on the petition under 37 C.F.R. 1.181, filed October 23, 2006 (certificate of mailing date October 19, 2006), to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed on January 24, 2006, which set forth an extendable 2 month period to submit an executed oath and a surcharge for its late filing. No extensions of time being obtained pursuant to 37 C.F.R. 1.136(a), the Office contended this application became abandoned on March 25, 2006 for failure to reply to the January 24, 2006 Notice. A Notice of Abandonment was mailed on October 2, 2006.

Petitioners assert that they mailed an executed declaration and a check for the surcharge to the Office on March 22, 2006. The original response is not of record in the file and cannot be located. However, the copy of the itemized Response to Notice to File Missing Parts submitted with the instant petition contains a proper certificate of mailing bearing a March 22, 2006 date of deposit.

Under 37 CFR 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 CFR 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 CFR 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 Response to Notice to File Missing Parts bears a proper certificate of mailing, dated March 22, 2006, in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Vi Hoang, had reasonable basis to expect that the correspondence would be mailed on March 22, 2006, as she was responsible for mailing the correspondence. Vi Hoang has provided a statement that a PTOL-85 and $65.00 surcharge was deposited with the USPS as first class mail on March 22, 2006.

The petition is **GRANTED**, the holding of abandonment is withdrawn, and the October 2, 2006 Notice of Abandonment is **vacated**.

Since the check mailed with the declaration on certificate of mailing date March 22, 2006 cannot be located, deposit account no. 02-2666 will be charged the $65.00 late declaration surcharge.

The application file will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**TEXAS INSTRUMENTS INCORPORATED**
**P O BOX 655474, M/S 3999**
**DALLAS TX 75265**

MAILED

MAR 25 2010

OFFICE OF PETITIONS

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| In re Application of | : | |
| Tal et al. | : | |
| Application No. 11/297,524 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. TI-39641 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2010, 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 July 13, 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 October 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 an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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3591 Gouin E.
Montreal QC H1H 5V7 CA CANADA

**MAILED**

JUN 16 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Simard et al. | : | |
| Application No.: 11/297538 | : | DECISION ON |
| Filing or 371(c) Date: 12/08/2005 | : | PETITION |
| Title of Invention: | : | |
| TIRE HANDLING APPARATUS | : | |

This is a decision in response to the "Petition to Revive Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), filed March 16, 2010.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Noncompliant Amendment ("Notice"), mailed August 10, 2009. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply to the Notice on August 31, 2009; September 8, 2009 and January 26, 2009; however, the replies were not complete and proper reply. No complete and proper reply having been received, the application became abandoned on September 11, 2009[1]. A Notice of Abandonment was mailed February 19, 2010.

The present petition

Applicants file the present petition and assert that the delay in filing the required reply was unavoidable because Applicants were unaware that this Office continued counting time until the reply to the non-compliant was filed instead of stopping after the filing of the reply. It is also noted that applicants have not filed a reply to the Notice of Non-Compliant Amendment with the

[1] A review of Office records reveal that Applicants failed to file extension of time requests and fees with the reply filed January 26, 2010. Accordingly, the application became abandoned as of midnight September 11, 2009.

present petition. Nor have Applicants referenced the reply filed January 26, 2010 as the reply to the Notice of Non-Compliant Amendment.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant lacks items (**1**) and (**3**).

As to item (**1**), Applicants have failed to file the required reply to the Office action. Applicants are advised that the reply must be a complete and proper reply. The applicable law, 35 U.S.C.§ 133, Time for prosecuting application, states:

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

Id.

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

Further to this, the applicable Rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) *Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require*. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Emphasis supplied.

Here, Applicants have not filed a reply to the Notice of Non-Compliant Amendment with the present petition. Nor have Applicants referenced the reply filed January 26, 2010 as the reply to the Notice of Non-Compliant Amendment. Applicants are advised that a complete and proper reply to the Notice of Non-Compliant Amendment is required.

As to item (3), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

Applicable Law, Rules and MPEP

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

> The word unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
> In re Mattullath , 38 App. D.C. 497, 514-15 (1912)(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff 'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as

preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). 35 U.S.C. 133 and 151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). (Emphasis supplied).

Finally, Applicant is advised that when he chooses to prosecute without the assistance of counsel, he is obligated to either familiarize himself with the requirements of successfully prosecuting this application, or retain counsel. Persons seeking patent rights have no "right" to the assistance of counsel during the application process. Boyden v. Commissioner of Patents, 441 F.2d 1041, 168 USPQ 680 (D.C. Cir. 1971).

**Analysis**

Applicants here assert that the delay in responding to the Office action was unavoidable because Applicants were unaware that this Office continued counting time until the reply to the non-compliant was filed instead of stopping after the filing of the reply.

Initially it is reiterated that it is Applicant's responsibility to file a complete and proper reply as the condition of the application requires.

Of note is that Applicant was given several opportunities to timely file a complete and proper reply to the non-final Office action. Applicants filed a first reply to the non-final Office action, an amendment, on September 24, 2008. The reply was non-compliant. Applicants were so notified in a Notice of Non-Compliant Amendment mailed November 3, 2008, and remailed November 17, 2008. Applicants filed a second amendment correcting drawings, on November 24, 2008; however, again the amendment was non-compliant. Applicants were so notified in a Notice of Non-Compliant Amendment mailed March 6, 2009. Applicants filed a third amendment on April 3, 2009; however, the amendment was again non-compliant. Applicants were so notified in a Notice of Non-Compliant Amendment mailed August 10, 2009. Applicants filed two more replies to the non-final Office action in response to the Notice of Non-Compliant Amendment mailed August 10, 2009, on August 31, 2009; September 8, 2009. Again the replies were non-compliant. Applicants were advised in an Office communication mailed November 30, 2009.

As stated above, the lack of knowledge or improper application of the patent laws and rules do not constitute unavoidable delay. Likewise, the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action, does not constitute unavoidable delay. It is Applicant's responsibility to file a complete and proper (timely) reply to the Office action as the condition of the application requires.

Finally, Applicants are again reminded that when they choose to prosecute without the assistance of counsel, theyt are obligated to either familiarize themselves with the requirements of successfully prosecuting this application. Here, Applicant filed five replies to the non-final Office action, none of which were compliant. While the delay in filing a complete and proper (timely) reply to the Office action may be said to have been unintentional, it is not found to have been unavoidable.

**Conclusion**

The petition is dismissed.

**Alternate venue**

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $810.00 for a small entity.

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

Finally, Applicants are advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that the Inventor's Assistance Center is available to provide assistance, at 1-800-786-9199, for assistance in prosecuting the patent application.

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

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| By mail: | Director for Patents<br>PO Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX: | (571) 273-8300<br>Attn: Office of Petitions |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Goodrich Corporation
Patent Department
Four Coliseum Centre
2730 West Tyvola Road
Charlotte, NC 28217

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Farrier | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616231 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,546 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **603** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

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1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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| In re Application of<br>Mohan Sanduja, Sundershan<br>Sanduja, Carl Horowitz, Ella<br>Mayslich, and Paul Thottathil<br>Application No. 11/297,564<br>Filed: December 9, 2005<br>Attorney Docket No. 18620/44<br>Title: COATING AND METHOD FOR<br>COATING A ZINC-CONTAINING<br>SUBSTRATE | DECISION ON PETITION UNDER<br>37 C.F.R. §1.47(A) |

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 18, 2006.

On December 9, 2005, the application was deposited without an executed declaration, identifying Mohan Sanduja, Carl Horowitz, Ella Mayslich, and Paul Thottathil as joint inventors. On

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

January 19, 2006, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

With the present petition, Petitioner has submitted the petition fee, the surcharge, and a one-month extension of time to make timely this response. Petitioner has further included a declaration which has been executed by each of the joint inventors save Mr. Sunduja, and Petitioner has indicated that this individual is deceased. Petitioner has contacted the legal representative of Mr. Sundershan Sanduja, and forwarded a complete copy of the application to the same, and an executed declaration has not been provided to Petitioner.

Petitioner has met requirements (1) - (3) above.

Regarding the fourth requirement above, Petitioner provided a complete copy of the application to Jill Oshin, who is the legal representative of Sundershan Sanduja. Petitioner was informed by the assignee that the nephew of the deceased, Mr. Sundershan Sanduja, would be the executor of the estate, and that Ms. Oshin would be his legal representative[2]. This assertion is disputed by Ms. Oshin, who indicated, in a letter dated March 14, 2006, that "Sundershan Sanduja is not the executor of Mohan Sanduja's estate as of yet and therefore has no standing to sign any document in that capacity."

As such, it is clear that the person who Petitioner mailed the application to does not represent the executor of the estate of the deceased.

37 C.F.R. §1.42 sets forth, in toto:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

MPEP §409.01(a) sets forth that *one who has reason to believe that he or she will be appointed legal representative* (emphasis

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2 Dietze declaration of facts, paragraph 2.

added) of a deceased inventor may apply for a patent as legal representative in accordance with 37 C.F.R. §1.42.

MPEP §409.01(b) sets forth, *in toto*:

> The Office no longer requires proof of authority of the legal representative of a deceased or incapacitated inventor. Although the Office does not require proof of authority to be filed, any person acting as a legal representative of a deceased or incapacitated inventor should ensure that he or she is properly acting in such a capacity.

Petitioner has asserted that "the law does not require that Mr. Sundershan Sanduja be the executor of the estate, only that he has reason to believe that he or she will be appointed legal representative of the estate in accordance with 37 CFR 1.42[3]."

Two things are clear -the assignee believes that Mr. Sanduja will be appointed legal representative of the estate, and Mr. Sanduja had not been appointed the legal representative of the estate as of the filing of this petition. What is not clear is whether Mr. Sanduja if of the opinion that he has reason to believe that he will be appointed legal representative. The belief must be on the part of the individual who believes they will be appointed. With the present situation, it was the assignee who held the belief, not the prospective representative. As such, the fourth requirement of Rule 47(a) has not been met.

Regarding the fifth requirement of Rule 47(a), the declaration which has been submitted by Petitioner contains the signatures of the signing inventors, as well as a blank signature block which contains the name and address of Mr. Sanduja, along with the notation "legal representative of Mohan Sanduja (deceased inventor)." Pursuant to the discussion above, it has not been established that this individual has reason to believe that he will be appointed the legal representative of the estate, and therefore this declaration cannot be accepted.

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

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

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3 Petition, paragraph 4i.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. 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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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Mohan Sanduja, Sundershan | : | |
| Sanduja, Carl Horowitz, Ella | : | |
| Mayslich, and Paul Thottathil | : | DECISION NOTING JOINDER AND |
| Application No. 11/297,564 | : | DISMISSING RENEWED PETITION |
| Filed: December 9, 2005 | : | UNDER 37 C.F.R. §1.47(A) AS |
| Attorney Docket No. 18620/44 | : | MOOT |
| Title: COATING AND METHOD FOR | : | |
| COATING A ZINC-CONTAINING | : | |
| SUBSTRATE | : | |

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed September 26, 2006.

On December 9, 2005, the application was deposited without an executed declaration, identifying Mohan Sanduja, Carl Horowitz, Ella Mayslich, and Paul Thottathil as joint inventors. On January 19, 2006, applicant was mailed a "Notice to File Missing

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

Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

The original petition was filed on April 18, 2006, and was dismissed via the mailing of a decision on July 24, 2006.

With the present renewed petition, Petitioner has submitted a one-month extension of time to make this response timely, as well as a declaration which has been executed by the administrator of the estate of the deceased non-signing joint inventor.

As such, this renewed petition is **DISMISSED AS MOOT.**

In view of the joinder of the joint inventor, further consideration under 37 C.F.R. §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status. This application need not be returned to this Office for further consideration under 37 C.F.R. §1.47(a).

The Technology Center will be made aware of this decision.

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

Mail Date: 05/10/2010

| | | |
|---|---|---|
| **Applicant** | : Kie Y. Ahn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7615438 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,567 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **956** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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** : 11/23/09

**TO SPE OF** : ART UNIT 2624 S.N. 11/297578

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7,428,320

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** Magdalene Talley **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

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

**Comments:**

VIKKRAM BALI 2624 SPE



PAGE 2/2 * RCVD AT 11/23/2009 11:01:09 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/37 * DNIS:2709942 * CSID:5712730045 * DURATION (mm-ss):00-26

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MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : George Williams | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593469 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,588 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **957** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUL 16 2008

**OFFICE OF PETITIONS**

In re Application of :
Paglieri :
Application No. 11/297,602 : ON PETITION
Filed: December 8, 2005 :
Attorney Docket No. TI-36454 :
For: DYNAMICALLY CONFIGURABLE
SCAN CHAIN TESTING

This is a decision on the petition, filed April 4, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the August 23, 2007 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on November 24, 2007. A Notice of Abandonment was mailed on March 24, 2008.

Applicant has submitted an amendment in reply to the August 23, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 23, 2007 non-final Office action, and authorization to charge the $1,540.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

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.

After the mailing of this decision, the application will be returned to Technology Center AU 2117 for consideration of the amendment filed on April 4, 2008.

Telephone inquiries 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

CC: JONATHAN M. HARRIS
CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON TX 77253-3267

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**JACQUELINE E. HARTT, PH.D**
**ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.**
**P.O. BOX 3791**
**ORLANDO FL 32802-3791**

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| | | |
|---|---|---|
| In re Application of | : | |
| Tanenhaus et al. | : | |
| Application No. 11/279,608 | : | ON PETITION |
| Filed: April 13, 2006 | : | |
| Attorney Docket No. 90233 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 13, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant, Mr. Jay Lawrence Lipeles. 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 3663 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hans-Juergen Schmidt | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7641147 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,612 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **643** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Junming Le et al | : | |
| Application No. 11/297,655 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0975.1005-056 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 14, 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 Jan Vilcek'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 1646 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Christopher J. Sattora | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648750 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,666 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **637** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI, OH 45215

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Robert Eugene Kraft | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607308 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,698 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Young-Woo Song | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7579775 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,702 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **205** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**Morrison & Foerster, LLP**
**555 West Fifth Street**
**Suite 3500**
**Los Angeles, CA 90013-1024**

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AUG 2 6 2008

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| | | |
|---|---|---|
| In re Application of | : | |
| Ryan T. Moehle, et al. | : | |
| Application No. 11/297,703 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 1016720034P | : | FROM RECORD |
| | : | |

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 5, 2008.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rutan & Tucker, LLP**
**611 Anton Blvd.**
**Suite 1400**
**Costa Mesa, CA 92626**

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DOUGLAS S. FOOTE
INTELLECTUAL PROPERTY SECTION
LAW DEPARTMENT, NCR CORPORATION
1700 SOUTH PATTERSON BLVD.
DAYTON OH 45479-0001

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JUN 2 0 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| vanDemark, et al. | : | |
| Application No. 11/297,706 | : | DECISION |
| Filed: 8 December, 2005 | : | ON PETITION |
| Attorney Docket No.: 12288 | : | |

This is a decision on the petition under 37 C.F.R. §1.78(a)(3) and (a)(6), filed 11 October, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii) and §1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §120 and §119(e) and 37 C.F.R. §1.78(a)(2)(i) and §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

**(2)** the surcharge set forth in §1.17(t); and

**(3)** a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require

additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 C.F.R. 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 requirements above having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 C.F.R. 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

This application is being forwarded to Technology Center/AU 2854 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

Attachment: Corrected Filing Receipt

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

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/297,706 | 12/08/2005 | 2854 | 1700 | 12288 | 26 | 3 |

**CONFIRMATION NO. 3971**

**CORRECTED FILING RECEIPT**

Douglas S. Foote
Intellectual Property Section
Law Department, NCR Corporation
1700 South Patterson Blvd.
Dayton, OH 45479-0001

*OC000000030552969*

Date Mailed: 06/18/2008

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 J. Van Demark, Springboro, OH;
Dale R. Lyons, Suwanee, GA;
Justin L. Collins, Woodstock, GA;
Michael Lee Barlow, Duluth, GA;
Sachio Koyama, Singapore, SINGAPORE;
Yasutoshi Serizawa, Singapore, SINGAPORE;

**Assignment For Published Patent Application**

NCR Corporation

**Power of Attorney:**

Douglas Foote--31013
James Stover--32759
Michael Chan--33663
Paul Martin--34870
Christopher Ricci--37705
John Cowart--38415
Harden Stevens III--55649

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/290,710 11/30/2005
which is a CIP of 11/290,723 11/30/2005

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/19/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/297,706**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**Title**

Dual-sided thermal printing

**Preliminary Class**

400

## 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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OCT 11 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 12288

Application of

Michael VanDemark et al.

Serial No. 11/297,706

Filed: December 8, 2005

For: **DUAL-SIDED THERMAL PRINTING**

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

**CERTIFICATION OF FACSIMILE TRANSMISSION**

Sir:

I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark Office on the date shown below to Fax No. (571) 273-8300.

| | |
|---|---|
| Amendment | 2 pages |
| Fax Transmittal | 1.page |
| Total Pages | 3 pages |

October 11, 2007
Date

Sallie L. Spicer
Printed name of person signing

Sallie Spicer
Signature

## 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).

OCT 11 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NCR Docket No. 12288

In re Application of:

Michael VanDemark et al.

Application No.: 11/297,706

Filed: December 8, 2005

For: DUAL-SIDED THERMAL PRINTING

Mail Stop Petition
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING OR TRANSMISSION**
I hereby certify that this correspondence is being transmitted by facsimile or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria VA 22313-1450 on 10/11/2007 Date Sallie Spicer Sallie Spicer

## PETITION

This is a petition under 37 CFR 1.78(a)(3). Applicant asks the Office to reconsider this application and allow this petition.

In a separate paper, Applicant has amended the specification of the subject application for patent to claim priority as a continuation-in-part of U.S. Application No. 11/290,710 entitled "Dual-Sided Two Color Thermal Printing" and filed on November 30, 2005 and U.S. Application No. 11/290,723 entitled "Dual-Sided Thermal Printing with Labels" and filed on November 30, 2005. No new matter has been added.

Applicant hereby states 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.



06/20/2008 CKHLOK 00000003 140225 11297706

PAGE 2/3 * RCVD AT 10/11/2007 2:55:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2738300 * CSID:9346456794 * DURATION (mm-ss):01-28

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In view of the foregoing, Applicant asks the Office to reconsider this application and allow this petition. Please apply any charges that might be due, excepting the issue fee but including the surcharge under 37 CFR 1.17(t) and fees for extensions of time, if any, to deposit account 14-0225.

Respectfully,

Charles Q. Maney
Reg. No. 58,256

NCR Corporation
1700 South Patterson Boulevard
Dayton, Ohio 45479-0001

Tel. (937) 445-3849
Fax (937) 445-6794



PAGE 3/3 * RCVD AT 10/11/2007 2:55:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2738300 * CSID:9374456794 * DURATION (mm-ss):01-28

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

**MAILED**

MAY 20 2009

OFFICE OF PETITIONS

In re Application of :
Renavikar et al. :
Application Number: 11/297722 :
Filing Date: 12/08/2005 : ON PETITION
Attorney Docket Number: P22052 :

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

The petition is **GRANTED**.

This application became abandoned on July 19, 2008, for failure to timely respond to the Office action requiring restriction and/or election mailed on June 18, 2008, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on February 13, 2009.

The subject petition was filed on April 8, 2009, accompanied by an election of claims.

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

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

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

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is referred to Technology Center Art Unit 1793 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chin-Yi Chiang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7602975 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,739 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **978** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kie Y. Ahn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7592251 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,741 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA FL 32922

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| | | |
|---|---|---|
| In re Application of | : | |
| Hyoung Jin CHO et al. | : | |
| Application No. 11/297,750 | : | DECISION ON PETITION |
| Filed: December 08, 2005 | : | |
| Attorney Docket No. UCF-500 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees on or before November 06, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 06, 2008. Accordingly, the date of abandonment of this application is November 07, 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 $755, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

This application is being referred to the Office of Data Management for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

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PATTERSON & SHERIDAN, LLP/CISC
3040 POST OAK BLVD.
SUITE 1500
HOUSTON, TX 77056-6582

Mail Date: 06/02/2010

| | | |
|---|---|---|
| **Applicant** | : James A. Aviani | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624190 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,771 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **645** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Joachim Banik | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604142 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,798 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **909** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PORTLAND OR 97201

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OFFICE OF PETITIONS

In re Application of
Bush, et al.
Application No.: 11/297,809
Filed: December 7, 2005
Attorney Docket No: 1417-001/MMM

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed January 22, 2008.

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 application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed January 19, 2006. The notice set a shortened period for reply of two-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 26, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> >Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).<
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:
>
> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.
>
> In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not explanation for extended delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may 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

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MAY 09 2008

IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

| | | |
|---|---|---|
| In re Application of | : | |
| Bush, et al. | : | |
| Application No.: 11/297,809 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No: 1417-001/MMM | : | |

This is in response to the renewed petition under 37 CFR 1.137(b) filed April 11 2008.

The renewed petition is GRANTED.

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed January 19, 2006. The notice set a shortened period for reply of two-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 26, 2006. A petition under 37 CFR 1.137(b) was first filed on January 22, 2008, and dismissed by a decision mailed February 11, 2008.

The response to the Notice to File Missing Parts of Non-Provisional Application, filed January 22, 2008, is noted.

The application file is being directed to the Office Patent Application Processing for further review.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON BROOK SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAR 30 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Junming Le et al | : | DECISION ON PETITION |
| Application No. 11/297,810 | : | TO MAKE SPECIAL UNDER |
| Filed: December 8, 2005 | : | 37 CFR 1.102(c)(1) |
| Attorney Docket No. 0975.1005-049 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 14, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The petition includes a copy of a passport for Ms. Jan Vilcek attesting that she is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1644 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES & SMITH, LLP
THE RIVIANA BUILDING
2777 ALLEN PARKWAY, SUITE 800
HOUSTON TX 77019-2141

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AUG 29 2006
OFFICE OF PETITIONS

In re Application of
Philip James Rae et al.
Application No. 11/297,824
Filed: December 8, 2005
Attorney Docket No. 020569-09201

: DECISION ON PETITION

This is a decision on the petition filed February 15, 2006 to change the order of the names of the inventors. The request is treated under 37 CFR 1.182.

A review of Office PALM records indicates that the correction has already been made. In view of the above, the petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Philip James Rae
2. Gino F. Di Lullo Arias
3. Atikah Jamilah Bte Kunju Ahmad

With respect to the fees paid, the petition fee cannot be reimbursed in that the inventor information was taken from the oath. The oath identified inventor Rae as the second named inventor. Therefore the confusion in the order was not due to USPTO error.

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 3676 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/297,824 | 12/08/2005 | 3676 | 1330 | 020569-09201 (P205-1423-U | 4 | 20 | 4 |

**CONFIRMATION NO. 4074**
**CORRECTED FILING RECEIPT**
*OC000000020219968*
*OC000000020219968*

54487
JONES & SMITH, LLP
THE RIVIANA BUILDING
2777 ALLEN PARKWAY, SUITE 800
HOUSTON, TX 77019-2141

Date Mailed: 08/29/2006

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)**

Philip James Rae, Singapore, SINGAPORE;
Gino F. Di Lullo Arias, Rio de Janeiro, BRAZIL;
Atikah Jamilah Bte Kunju Ahmad, Singapore, SINGAPORE;

**Assignment For Published Patent Application**

BJ Services Company

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/637,134 12/17/2004

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/13/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/297,824**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Matrix treatment of damaged sandstone formations using buffered HF-acidizing solutions

**Preliminary Class**

166

## 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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RM 4-1159
BELTSVILLE MD 20705-5131

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Norman J. Stern et al | : | |
| Application No. 11/297,841 | : | DECISION GRANTING PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 0021.06 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of March 29, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Data Management.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/297,866 | 12/09/2005 | Bernardo Huberman | 200503558-1 | 4120 |

7590 04/18/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

| EXAMINER |
|---|
| MORGAN, ROBERT W |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3626 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/18/2008 | 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: 04/21/2008 DTERRY
12/13/2005 HMARZI1 00000080 082025 11297866
02 FC:1111 500.00 CR
04 FC:1201 400.00 CR
05 FC:1202 350.00 CR



FORM PET651G (Rev. 08/07)

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| *In re* Application of: | § | BEFORE THE EXAMINER: |
| Datta *et al.* | § | Not Yet Assigned Lipman, Bernard |
| Serial No.: Not Yet Assigned 11/297870 | § | Group Art Unit No.: Not Yet Assigned 1713 |
| Filed: December 9, 2005 | § | Attorney Docket No.: 1997B050/12 |
| For: Propylene Alpha-Olefin Polymers | § | Confirmation No.: Not Yet Assigned |
| Customer No.: 23455 | § | December 9, 2005 |

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

## PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

December 9, 2005
Date

Michael A. Cromwell
Attorney for Applicants
Registration No. 42,449

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2866
Fax: 281-834-2495

**PETITION GRANTED**

William Krynski,
Special Program Examiner
Technology Center 1700

I:\Bpc\LA\W\Prosecution\EMCC Prosecution\1997\1997b050\US\1997B050-12\1997B050-12 (US)\1997B050-12-US-2005DEC09-Petition to Make Special.Doc

JAN 3 0 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | | |
|---|---|---|
| *In re* Application of: | § | BEFORE THE EXAMINER |
| Datta *et al.* | § | Not Yet Assigned Lipman, Bernard |
| Serial No.: Not Yet Assigned 11/297871 | § | Group Art Unit No.: Not Yet Assigned 1713 |
| Filed: December 9, 2005 | § | Attorney Docket No.: 1997B050/14 |
| For: Process for Producing Propylene | § | Confirmation No.: Not Yet Assigned |
| Alpha-Olefin Polymers | § | |
| Customer No.: 23455 | § | December 9, 2005 |

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO MAKE SPECIAL**

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

December 9, 2005
Date

Michael A. Cromwell
Attorney for Applicants
Registration No. 42,449

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2866
Fax: 281-834-2495

**PETITION GRANTED**

**William Krynski,**
**Special Program Examiner**
**Technology Center 1700**

I:\Bpc\LAW\Prosecution\EMCC Prosecution\1997\1997b050\US\1997B050-14\1997B050-14 (US)\1997B050-14-US-2005DEC09-Petition to Make Special.Doc

JAN 30 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 14 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mahesh, et al. | : | |
| Application No. 11/297,887 | : | ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 197976IT-2 | : | |

This is a decision on the "PETITION TO CORRECT FILING DATE", filed February 14, 2006, which is being treated as a petition under 37 CFR 1.10(d) to accord the above application a filing date of December 7, 2005.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed via Express Mail mailing label No. EV 435257087 US on December 7, 2005, not December 9, 2005, the date accorded to the application by the PTO. Petitioner has supplied a copy of the Express Mail mailing label, bearing an illegible "date in" entry.

37 CFR 1.10(d) states that any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Emphasis added.

Here, petitioner has submitted corroborating evidence from the USPS in the form of a USPS "Track and Confirm" internet print-out indicating that Express Mail mailing label No. EV 435257087 US was accepted by the USPS on December 7, 2005. Accordingly, it is concluded that the application was filed (i.e. deposited with the USPS as Express Mail) on December 7, 2005.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **December 7, 2005, not December 9, 2005.**

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

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MAR 06 2008

OFFICE OF PETITIONS

In re Application of
Paul Laberge
Application No. 11/297,901
Filed: December 8, 2005
Attorney Docket No. **186312/US**

ON PETITION

This is a decision on the petition filed February 11, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) Is **GRANTED**.

The receipt of the Issue Fee Transmittal, the Issue Fee payment and Publication fee on November 5, 2007, after the three month period for reply set by the Notice of Allowance mailed August 2, 2007, caused the instant application to become abandoned on November 5, 2007. While the above items were received in the office on November 5, 2007 the Issue Fee Transmittal did not include a signed certificate of mail. Accordingly, a Notice of Abandonment was mailed January 30, 2008.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division.

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] 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.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Neal E. Fearnot | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655033 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,913 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **378** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Mio Tanida | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624186 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,930 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

| | | |
|---|---|---|
| **Applicant** | : Maria D. Ellul | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655727 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/297,937 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : San-Qi Li | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593415 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/297,941 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **484** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**ONE ATLANTIC CENTER**
**FOURTEENTH FLOOR**
**1201 WEST PEACHTREE STREET NW**
**ATLANTA, GA 30309-3488**

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NOV 07 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Klaus Jansen | : | |
| Application No. 11/297,986 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 148585.00600 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 10, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles Warner on behalf of all attorneys/agents associated with customer number 25207. All attorneys/agents associated with customer number 25207 have been withdrawn.

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 sole inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

A non-final rejection was mailed on September 19, 2007. Failure to timely respond will result in the abandonment of 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: Klaus Jansen
Stralsunder Weg 8
Bustehude, Germany 21614

cc: Laurence P. Colton
Smith Gambrell & Russell
1230 Peachtree Street, NW
Promenade II, Suite 3100
Atlanta, GA 30309

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/297,986 | 12/08/2005 | Klaus Jansen | 148585.00600 |

**CONFIRMATION NO. 4854**

**POWER OF ATTORNEY NOTICE**

25207
POWELL GOLDSTEIN LLP
ONE ATLANTIC CENTER
FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW
ATLANTA, GA 30309-3488

*OC000000026637323*

Date Mailed: 11/06/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2007.

- 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.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APR 23 2010

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**CARSTENS & CAHOON, LLP**
**P O BOX 802334**
**DALLAS TX 75380**

| | | |
|---|---|---|
| In re Application of | : | |
| Kenneth A. Jones, et al. | : | |
| Application No. 11/297,989 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. AQMED.0140 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 22, 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). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 23, 2009. The Notice of Abandonment was mailed September 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (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) 272-2991.

This application is being referred to Technology Center AU 3761 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

Terri Johnson
Petitions Examiner
Office of Petitions

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**BARNARD INTELLECTUAL PROPERTY LAW, INC.**
**P.O. BOX 58888**
**SEATTLE, WA 98138-1888**

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OCT 0 7 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kioan Cheon | : | |
| Application No. 11/297,997 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. Koolance "H" | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 13, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 14, 2008. A Notice of Abandonment was mailed August 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election of the invention to be examined, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2835 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No.

KEVIN E. MC VEIGH
RHODIA INC.
CN 7500
259 PROSPECT PLAINS ROAD
CRANBURY NJ 08512

**COPY MAILED**

AUG 25 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ruela Talingting-Pabalan et al. | : | |
| Application No. 11/298,003 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | PURSUANT TO |
| Attorney Docket No. RD 04029 | : | 37 C.F.R. § 1.78(A)(6) |
| Title: METHOD FOR DURABLE | : | |
| HYDROPHILIZATION OF A | : | |
| HYDROPHOBIC SURFACE | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(6), filed July 21, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment to the specification.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 C.F.R. § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office

notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the petition fee is unnecessary and has not been charged to Petitioner's Deposit Account.

The application is being forwarded to Technology Center AU 1794 for appropriate action on the amendment filed July 21, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[2]. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

---

1 *Note* MPEP § 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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ALEXANDRIA, VA 22313-1450
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MAR 10 2006

| | | |
|---|---|---|
| In re Application of | : | |
| John E. Bennett | : | |
| Serial No. 11/298,004 | : | DECISION ON PETITION |
| Filed: December 10, 2005 | : | TO MAKE SPECIAL |
| For: GYROSCOPIC GOLF CLUB HEADS | : | |

Applicant's petition, filed December 10, 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.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

John E. Bennett
1570 Homewood Drive
Altadena, CA 91001

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Paul F. Newman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7592876 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,018 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **145** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 11/17/08

TO SPE OF : ART UNIT 2873 MACK Ricky (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/298019 Patent No.: 7375897

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**

Certificates of Correction Branch

**703-308-9390 ext.** _____

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

/Ricky Mack/
**SPE**

2873
**Art Unit**

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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

MAILED

JUL 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Marcus Peinado, et al. | : | |
| Application No.: 11/298,033 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No.: MSFT-5517/167421.17 | : | |

This is a decision on the petition, filed July 20, 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 June 17, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2185 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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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Ronald F. Mathis | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652608 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,035 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **422** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/30/2010

| | | |
|---|---|---|
| **Applicant** | : Randolph Wm. Nash | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663697 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/298,074 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1103** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BLAKELY SOKOLOFF TAYLOR & ZAFMAN**
**12400 WILSHIRE BOULEVARD, 7th FLOOR**
**LOS ANGELES CA 90025-1030**

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NOV 13 2006

**OFFICE OF PETITIONS**

In re Application of
**CHENG**, et al.
Application No. 11/298,094
Filed: December 8, 2005
Attorney Docket No. 005306.P143D

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "applicant/assignee's demand", 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**). The power of attorney filed on September 11, 2006 included an invalid reel and frame number and is therefore not accepted.

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: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldge. 4, Site 201
Austin, TX 78759

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 |
|---|---|---|---|
| 11/298,094 | 12/08/2005 | Kit Man Cheng | 005306.P143D |

**CONFIRMATION NO. 6228**

*OC000000021188222*

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 11/09/2006

## NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. or is improper.
- The 3.73(b) filed 9/11/06 included an incorrect reel/frame number.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/298,094 | 12/08/2005 | Kit Man Cheng | 005306.P143D |

**CONFIRMATION NO. 6228**

*OC000000021188222*

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 11/09/2006

## NOTICE REGARDING POWER OF ATTORNEY

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- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received/or is improper. The 3.73(b) filed 9/11/06 included an incorrect reel/frame number.

CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

MONICA A GRAVES
OP (571) 272-7253

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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LYNN E BARBER
P O BOX 16528
FORT WORTH TX 76162

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AUG 1 5 2008

OFFICE OF PETITIONS

In re Application of
Nicholas F. Mirabile
Application No. 11/298,100
Filed: December 9, 2005
Attorney Docket No. **MIRN01**

ON PETITION

This is a decision on the petition filed July 11, 2008, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned May 31, 2007, for failure to file a timely response to the Office action in accordance with *Ex parte Quayle*,[2] mailed on January 9, 2007, which set a two (2) month period for reply. A response in the form of an amendment was filed March 5, 2007. However, on April 30, 2007 the applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the April 30, 2007 Notice. No response having been filed, this application became abandoned May 31, 2007 and accordingly, a Notice of Abandonment was mailed January 17, 2008.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]1935 C.D. 11, 453 O.G. 213.

in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

An amendment has been submitted with the petition to revive and is being referred to Technology Center 3748 for processing of the amendment filed July 11, 2008.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAY 29 2008

OFFICE OF PETITIONS

**HELLER EHRMAN LLP**
**275 MIDDLEFIELD ROAD**
**MENLO PARK, CA 94025-3506**

In re Application of

**BLACKBURN,** Thomas P. et al.
Application No. 11/298,116
Filed: December 09, 2005
Attorney Docket No. **43373-0003**

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 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Leslie B. Overman on behalf of all attorneys of record who are associated with customer No. 25213. 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 address 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.

The application became abandoned for failure to reply to the Office action mailed October 01, 2007.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THOMAS P. BLACKBURN**
**114TH STREET**
**APT. 412**
**HOBOKEN, NJ 07030**

cc: **DON J. PELTO**
**SHEPPARD, MULLIN, RICHTER & HAMPTON LLP**
**1300 I STREET, NW**
**11TH FLOOR EAST**
**WASHINGTON, DC 20005**

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FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO CA 94304

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SEP 29 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| CHU, et al. | : | |
| Application No. 11/298,137 | : | DECISION ON PETITION |
| Filed: December 09, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 310473-5000 | : | FROM RECORD |
| | : | |

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 07, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "As a result of this sale, this patent application has been assigned from Galileo Pharmaceuticals, Inc. to Eli Lilly & Co.," are not appropriate since it 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). The power of attorney filed on February 17, 2006 does not include one of the above two options.

There are no outstanding Office actions that require a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: MaCharri Vorndran-Jones, BS, MS, JD
Patent Counsel
ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

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PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

MAILED

JUL 17 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chu et al. | : | ON REQUEST FOR |
| Application No. 11/298137 | : | RECONSIDERATION OF |
| Filing or 371(c) Date: 12/09/2005 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No.. | : | |
| X-17513M | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE SUBMITTED UNDER (37 C.F.R. §1.705), filed May 22, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 272 days, not 195 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 request for reconsideration of 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 is unable to make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia 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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**Morrison & Foerster, LLP**
**755 Page Mill Road**
**Palo Alto, CA 94304-1018**

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OCT 09 2007

**OFFICE OF PETITIONS**

In re Application of
Paul A. Zwirkoski
Application No. 11/298,138
Filed: December 9, 2005
Attorney Docket No. 595022000300

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 11, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles D. Holland on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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 sole 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.

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Paul A. Zwirkoski
5126 Girard Drive
Pinckney, MI 48169-8730

cc: Jeremy R. Kriegel, Esq.
Marshall, Gerstein, Borun, LLP
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/298,138 | 12/09/2005 | Paul A. Zwirkoski | 595022000300 |

**CONFIRMATION NO. 6780**

*OC000000026200193*

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 10/09/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

K. Brabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | | |
|---|---|---|
| *In re.* Application of: | § | BEFORE THE EXAMINER: Teskin, F |
| Datta *et al.* | § | Not Yet Assigned |
| Serial No.: Not Yet Assigned 11/298143 | § | Group Art Unit No.: Not Yet Assigned 1713 |
| (Continuation of Serial No. 10/846,256) | § | Attorney Docket No.: 1998B037A/13 |
| Filed: December 9, 2005 | § | Confirmation No.: Not Yet Assigned |
| For: Propylene Olefin Copolymer | § | |
| Customer No.: 23455 | § | December 9, 2005 |

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO MAKE SPECIAL**

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

December 9, 2005
Date

Amy C. Trexler
Amy C. Trexler
Attorney for Applicants
Registration No. 51,531

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-5519
Fax: 281-834-2495

**PETITION GRANTED**

William Krynski
Special Program Examiner
Technology Center 1700
MAY 2 2 2007

I:\Bpc\LAW\Prosecution\EMCC Prosecution\1998\1998B037A-13\1998B037A-13 (US)\1998B037A-13-US-2(

12-12-05 IFW

DEC 0 9 2005 PATENT & TRADEMARK OFFICE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | | |
|---|---|---|
| *In re* Application of: | § | BEFORE THE EXAMINER: |
| Datta *et al.* | § | Not Yet Assigned 1711 |
| Serial No.: Not Yet Assigned 11/298146 | § | Group Art Unit No.: Not Yet Assigned |
| (Continuation of Serial No. 10/846,256) | § | Attorney Docket No.: 1998B037A/14 |
| Filed: December 9, 2005 | § | Confirmation No.: Not Yet Assigned |
| For: Elastic Blends Comprising Crystalline | § | |
| Polymer and Crystallizable Polymers | § | |
| of Propylene | § | |
| Customer No.: 23455 | § | December 9, 2005 |

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO MAKE SPECIAL**

Sir:

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Respectfully submitted,

December 9, 2005
Date

Amy C. Trexler
Amy C. Trexler
Attorney for Applicants
Registration No. 51,531

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-5519
Fax: 281-834-2495

**PETITION GRANTED**

William Krynski
Special Program Examiner
Technology Center 1700

I:\Bpc\LAW\Prosecution\EAMCC Prosecution\1998\1998B037A-14\1998B037A-14 (US)\1998B037A-14-US-2005DEC

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LOS ANGELES CA 90067

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of :
Niwayama et al. :
Application No. 11/298,151 : ON PETITION
Filed: December 9, 2005 :
Attorney Docket No. 211A 3809 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 26, 2006.

The petition to withdraw the holding of abandonment is **Granted**.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on February1, 2006. The Notice to 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 April 2, 2006. A Notice of Abandonment was mailed on October 6, 2006.

Petitioner contends that a reply to the Notice of Missing Parts, was mailed on March 22, 2006. As evidence, petitioner has submitted a copy of the reply which contains a certificate of mailing dated March 22, 2006 pursuant to 37 CFR 1.8.

The response submitted March 22, 2006 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

A review of the record shows that petitioner has failed to provide the replacement fee for the late submission of the oath or declaration. Accordingly, deposit account 11-1445 will be charged the $130.00 surcharge fee.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination 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

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

ION E. OPRIS
2198 LARK HILLS COURT
SAN JOSE, CA 95138

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APR 1 0 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ion E. Opris | : | |
| Application No. 11/298,156 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 1000.P010 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed, November 13, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Effective September 30, 2007, the issue fee changed to $720. Petitioner submitted $700 with the petition on November 13, 2007. This petition can not be granted until the $20 outstanding balance is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

ION E. OPRIS
2198 LARK HILLS COURT
SAN JOSE, CA 95138

**COPY MAILED**

OCT 14 2008

**OFFICE OF PETITIONS**

In re Application of
Ion E. Opris
Application No. 11/298,156
Filed: December 9, 2005
Attorney Docket No. 1000.P010

ON PETITION

This is a decision on the renewed petition filed June 13, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 5, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 6, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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SEP 24 2007

OFFICE OF PETITIONS

MRS. SHIRLEY B. KOFFROTH
1342 JAGUAR COURT
PALMDALE, CA 93551

In re Application of

Shirley B. Koffroth
Application No. 11/298,191
Filed: December 8, 2005
Attorney Docket No. SBK03

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed August 8, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 8, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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. 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 3739 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**HAHN LOESER & PARKS, LLP**
**ONE GOJO PLAZA**
**SUITE 300**
**AKRON OH 44311-1076**

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OCT 29 2008

**OFFICE OF PETITIONS**

In re Application of

**HART,** Gary et al.
Application No. 11/298,214
Filed: December 09, 2005
Attorney Docket No. **201242.00001**

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 09, 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 Timothy Smith on behalf of all attorneys of record who are associated with customer No. 21324. All attorneys/agents associated with the Customer Number 21324 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.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **GARY HART**
**8007 E. DAVENPORT DRIVE**
**SCOTTSDALE AZ 85260**

cc: **AMJ LOGISTICS, INC. D/B/A EDIRECTGLASS**
**8687 EAST VIA DE VENTURA, SUITE 311**
**SCOTTSDALE AZ 85258**

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

BARNARD INTELLECTUAL PROPERTY LAW, INC.
P.O. BOX 58888
SEATTLE, WA 98138-1888

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FEB 21 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Raymond Keith Foster et al | : | |
| Application No. 11/298,215 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. Foster "EE" | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 9, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Raymond Keith Foster stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3651 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BARNARD INTELLECTUAL PROPERTY LAW INC.**
**P.O. BOX 58888**
**SEATTLE, WA 98138-1888**

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JUN 13 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **FOSTER**, et al. | : | |
| Application No. 11/298,215 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. FOSTER "EE" | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2006 . Accordingly, the date of abandonment of this application is November 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Publishing Division for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AMIN, TUROCY & CALVIN, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND OH 44114

MAILED

FEB 02 2009

OFFICE OF PETITIONS

In re Application of

Eric J. Horvitz

Application No. 11/298,219

Filing Date: December 9, 2005

Attorney Docket No. **MS313289.01/MSFTP1032US**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2009.

The renewed petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed July 2, 2008. The notice allowed a shortened statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on October 3, 2008.

The amendment filed January 7, 2008, is noted.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The application is being forwarded to Technology Center 2600, GAU 2626 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

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

**FAIER & FAIER PC**
**566 W. ADAMS ST.**
**SUITE 600**
**CHICAGO, IL 60661**

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SEP 29 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Karl BRUGGER | : | |
| Application No. 11/298,258 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 8164 | : | |

This is a decision on the petition filed August 27, 2008, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed, February 11, 2008, which set a shortened statutory period for reply of three (3) months. Accordingly, a reply was due on or before May 11, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on August 11, 2008, which included the following papers: an amendment, a three (3) month extension of time and the required fees.

A review of the written record acknowledges receipt of the reply indicated above bearing a certificate of mailing date of August 11, 2008, which would have rendered the reply timely.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center AU 3641 for appropriate action in the normal course of business on the reply received with petition.

Thurman Page
Petitions Examiner
Office of Petitions

# RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11298258 Total Records Found: 4

Start Date: Any Date End Date: Any Date

| Accounting Date | Sequence Num. | Fee Type | Fee Code | Fee Amount | Mailroom Date | Payment Method |
|---|---|---|---|---|---|---|
| 08/15/2008 | 00000013 | 1 | 2253 | $525.00 | 08/14/2008 | CK |
| 12/13/2005 | 00000187 | 1 | 2011 | $150.00 | 12/09/2005 | CK |
| 12/13/2005 | 00000188 | 1 | 2111 | $250.00 | 12/09/2005 | CK |
| 12/13/2005 | 00000189 | 1 | 2311 | $100.00 | 12/09/2005 | CK |

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CENTRAL FAX CENTER
AUG 2 7 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Karl Brugger

Serial No.: 11/298258

Filed: 09 December 2005

Title: Lock/Rotation Mounted Suppressor

Group Art Unit: 3641

Examiner: Troy Chambers

**CERTIFICATE OF TRANSMISSION**

Pursuant to 37 C.F.R. § 1.8(a), I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on 27 August 2008.

Typed or printed name of person signing this certificate:

James Michael Faier (Reg. No. 56,731)

**Letter / Request to Revive**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Today we received a Notice of Abandonment in the above-identified case. Pursuant to 37 CFR 1.181 we request that the case be revived without payment of a revival fee. In the Notice of Abandonment, the Examiner wrote that he did not receive our response to the Office Action dated 11 February 2008. We mailed our response on 11 August 2008 including a Certificate of Mailing in the top, right hand corner of page 1 stating that we mailed the response on 11 August 2008. We also included a Petition for Extension of Time and our check for fees for the Extension. We received our receipt postcard stamped by the Office on 14 August 2008. To this letter, we attach our response. Please revive the application. Please give us a writing stating the application was revived.



PAGE 1/2 * RCVD AT 8/27/2008 4:42:30 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/19 * DNIS:2738300 * CSID: * DURATION (mm-ss):01-40

While Applicant does not believe that any fees are required, the Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-0040. In the case of overpayment, please credit the same account.

Dated this 27th day of August 2008.

Respectfully submitted,

By _____

James Michael Faier, M.P.P., M.B.A., J.D.

Registered Patent Attorney

USPTO Regn. No. 56,731



BEST AVAILABLE COPY

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CENTRAL FAX CENTER
AUG 2 7 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Karl Brugger

Serial No.: 11/298258

Filed: 09 December 2005

Title: Lock/Rotation Mounted Suppressor

Group Art Unit: 3641

Examiner: Troy Chambers

**CERTIFICATE OF TRANSMISSION**

Pursuant to 37 C.F.R. § 1.8(a), I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on 27 August 2008.

Typed or printed name of person signing this certificate:

James Michael Faier (Reg. No. 56,731)

**Letter / Request to Revive**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Today we received a Notice of Abandonment in the above-identified case. Pursuant to 37 CFR 1.181 we request that the case be revived without payment of a revival fee. In the Notice of Abandonment, the Examiner wrote that he did not receive our response to the Office Action dated 11 February 2008. We mailed our response on 11 August 2008 including a Certificate of Mailing in the top, right hand corner of page 1 stating that we mailed the response on 11 August 2008. We also included a Petition for Extension of Time and our check for fees for the Extension. We received our receipt postcard stamped by the Office on 14 August 2008. To this letter, we attach our response. Please revive the application. Please give us a writing stating the application was revived.



PAGE 1/5 * RCVD AT 8/27/2008 4:40:05 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2738300 * CSID: * DURATION (mm-ss):01-42

p.5 cut-off

While Applicant does not believe that any fees are required, the Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-0040. In the case of overpayment, please credit the same account.

Dated this 27th day of August 2008.

Respectfully submitted,

By _____

James Michael Faier, M.P.P., M.B.A., J.D.
Registered Patent Attorney
USPTO Regn. No. 56,731
Faier & Faier P.C.
566 W. Adams St., Suite 600
Chicago, IL 60661
telephone: (312) 382-9400
facsimile: (312) 382-9200

*Attorney for Applicants*



PAGE 2/5 * RCVD AT 8/27/2008 4:40:05 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2738300 * CSID: * DURATION (mm-ss):01-42

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AUG 2 7 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Karl Brugger

Serial No.: 11/298258

Filed: 09 December 2005

Title: Lock/Rotation Mounted Suppressor

Group Art Unit: 3641

Examiner: Troy Chambers

**CERTIFICATE OF MAILING**

Pursuant to 37 C.F.R. § 1.8(a), I hereby certify that this paper (along with any paper identified as being attached or enclosed therewith) is being deposited with the United States Postal Service on the date shown below, and with sufficient postage as First-Class Mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: 11 August 2008

James Michael Faier (Reg. No. 56,131)

**Amendment/Response**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the 11 February 2008 Office Action, Applicant respectfully requests that the Examiner reconsider the above-captioned application in light of the amendment and remarks that follow.

**Amendments to the claim of priority (paragraph [01]) in the Specification** is reflected in the amended specification that begins on page 3 of this paper.

**Amendment to the Claims** are reflected in the **Listing of Claims** that begin on page 5 of this paper.

**Remarks/Arguments** begin on page 13 of this paper.

A **Petition** for Three-month Extension with a $525.00 Check No. 23902 also



PAGE 3/5 * RCVD AT 8/27/2008 4:40:05 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/40 * DNIS:2738300 * CSID: * DURATION (mm-ss):01-42

The PTO did not receive the following listed item(s) check

accompanies this paper.

If the fees tendered in this case are deficient or in excess, then attorney for applicant asks the Office to debit or credit deposit account 06-0040 as necessary.



PAGE 4/5 * RCVD AT 8/27/2008 4:40:05 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2738300 * CSID: * DURATION (mm-ss):01-42

This Amendment to the Specification replaces all prior versions of the specification:

The marked up Amended priority claim in the Specification in 11/208,258 .

BEST AVAILABLE COPY

OIPE IAP40
AUG 14 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Karl Brugger

Serial No.: 11/298258

Filed: 09 December 2005

Title: Lock/Rotation Mounted Suppressor

Group Art Unit: 3641

Examiner: Troy Chambers

**CERTIFICATE OF MAILING**

Pursuant to 37 C.F.R. § 1.8(a), I hereby certify that this paper (along with any paper identified as being attached or enclosed therewith) is being deposited with the United States Postal Service on the date shown below, and with sufficient postage as First-Class Mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: 11 August 2008

James M. Faier

James Michael Faier (Reg. No. 56,731)

**Amendment/Response**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the 11 February 2008 Office Action, Applicant respectfully requests that the Examiner reconsider the above-captioned application in light of the amendment and remarks that follow.

**Amendments to the claim of priority (paragraph [01]) in the Specification** is reflected in the amended specification that begins on page 3 of this paper.

**Amendment to the Claims** are reflected in the **Listing of Claims** that begin on page 5 of this paper.

**Remarks/Arguments** begin on page 13 of this paper.

A **Petition** for Three-month Extension with a $525.00 Check No. 23902 also

accompanies this paper.

If the fees tendered in this case are deficient or in excess, then attorney for applicant asks the Office to debit or credit deposit account 06-0040 as necessary.

OIPE IAP40
AUG 1 4 2008
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/22 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2008 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).) | Docket Number (Optional) 8164 |
|---|---|
| Application Number 11298258 | Filed 12/09/2005 |
| For Lock/Rotation Mount Suppressor | |
| Art Unit 3641 | Examiner Chambers |

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

| | | Fee | Small Entity Fee | |
|---|---|---|---|---|
| ☐ | One month (37 CFR 1.17(a)(1)) | $120 | $60 | $ |
| ☐ | Two months (37 CFR 1.17(a)(2)) | $460 | $230 | $ |
| ☑ | Three months (37 CFR 1.17(a)(3)) | $1050 | $525 | $ 525.00 |
| ☐ | Four months (37 CFR 1.17(a)(4)) | $1640 | $820 | $ |
| ☐ | Five months (37 CFR 1.17(a)(5)) | $2230 | $1115 | $ |

☑ Applicant claims small entity status. See 37 CFR 1.27.

☑ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☑ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 06-0040. I have enclosed a duplicate copy of this sheet.

**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.**

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 56731

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34

James M. Faier — Signature

08/11/2008 — Date

James Michael Faier — Typed or printed name

3123829400 — Telephone Number

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 1.136(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 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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United States Patent and Trademark Office
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**KOKKA & BACKUS, PC**
**200 PAGE MILL ROAD**
**SUITE 103**
**PALO ALTO, CA 94306**

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MAR 0 9 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Perry J. NARANCIC, et al | : | |
| Application No. 11/298,261 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. BMM-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 February 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Scott S. Kokka on behalf of the attorneys of record associated with Customer No. 53830.

The attorneys of record associated with 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 address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.,* copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PERRY J. NARANCIC
325 SHARON PARK DRIVE #403
MENLO PARK, CA 94025

cc: BMMSOFT, INC.,
ATTN: PAUL KRNETA
225 BUSH STREET, 16TH FLOOR
SAN FRANCISCO, CA 94104

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

JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Perry J. Narancic | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668849 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,261 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **147** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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NOV 1 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Se Kyoung Choi | : | |
| Application No. 11/298,276 | : | DECISION DISMISSING PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 00939C-096000US | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until November 10, 2008 at 5:44 pm. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carries or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

PATENT
Docket No.: 00939C-096000US
Client Ref. No.: Po050745HD

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | |
|---|---|
| In re application of: | Confirmation No.: 6453 |
| Se Kyoung Choi | Examiner: Stephan W. Smoot |
| Application No.: 11/298,276 | Art Unit: 2813 |
| Filed: December 8, 2005 | PETITION FOR WITHDRAWAL FROM ISSUE AFTER PAYMENT OF ISSUE FEE |
| For: METHOD OF MANUFACTURING FLASH MEMORY DEVICE | |
| Customer No.: 20350 | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Office of Petitions for withdrawal of the above-referenced patent application from issue. This Petition is being submitted after payment of the issue fee, the payment for which was transmitted to the PTO by electronic filing on October 1, 2008.

The basis for this petition is 37 CFR 1.313(c)(2): withdrawal is being sought for the purpose to permit consideration of an Information Disclosure Statement under §1.97. Applicant submits herewith accordingly a Request for Continued Examination with a Supplemental Information Disclosure Statement and with payment of the appropriate fees.

The Commissioner is authorized to charge the undersigned's Deposit Account No. 20-1430 for the requisite fee of $130.00. Any additional fees, if required, may also be charged to Deposit Account No. 20-1430.

PATENT

Respectfully submitted,

/Barmak Sani/
Barmak Sani
Reg. No. 45,068

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
BXS:maw

61656264 v1

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

## REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/12/08

2 Serial/Patent # 11/298276

| | 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT |
|---|---|---|---|---|
| | Filing | | | $ |
| | Amendment | | | $ |
| | Extension of Time | | | $ |
| | Notice of Appeal/Appeal | | | $ |
| X | Petition | | 11/10/08 | $ 130.00 |
| | Issue | | | $ |
| | Cert of Correction/Terminal Disc. | | | $ |
| | Maintenance | | | $ |
| | Assignment | | | $ |
| X | Other (RCE) | | 11/10/08 | $ 810.00 |

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

| | |
|---|---|
| | Treasury Check |
| X | Credit Deposit A/C #: |

9 20--1430

10 REASON:

| | |
|---|---|
| | Overpayment |
| | Duplicate Payment |
| X | No Fee Due (Explanation): |

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: April Wise TITLE: Paralegal

SIGNATURE: /April Wise/ PHONE:

OFFICE: Office of Pettions

**********

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKlock DATE: 11/13/08

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*

**Office of Finance**
**Refund Branch**
**Crystal Park One, Room 802B**

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(01/90)

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**Fellers Snider Blankenship**
**Bailey & Tippens**
**The Kennedy Building**
**321 South Boston, Suite 800**
**Tulsa, OK 74103-3318**

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MAY 12 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Peter Matic, et al. | : | |
| Application No. 11/298,283 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 96810-US2 | : | FROM RECORD |
| | : | |

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** because it is moot.

A review of the file record indicates that the power of attorney to Fellers Snider Blankenship Bailey & Tippens has been revoked by the assignee of the patent application on February 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Naval Research Laboratory**
**Associate Counsel (Patents)**
**Code 1008.2**
**4555 Overlook Avenue, S.W.**
**Washington, DC 20375-5320**

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OFFICE OF PETITIONS

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

| | | |
|---|---|---|
| In re Application of | : | |
| Nicholas Kelsey, et al | : | |
| Application No. 11/298,289 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 40645-1004 | : | FROM RECORD |

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 **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.

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, instructions from Assignee, to transfer the application to new counsel, do 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.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: LEE VAN PELT
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD., SUITE 200
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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NOV 27 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Nicholas Kelsey, et al | : | |
| Application No. 11/298,289 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 40645-1004 | : | FROM RECORD |

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 12, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, instructions from Assignee, to transfer the application to new counsel, do 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.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: LEE VAN PELT
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD., SUITE 200
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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**STRAUB & POKOTYLO**
**788 SHREWSBURY AVENUE**
**TINTON FALLS NJ 07724**

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| | | |
|---|---|---|
| In re Application of | : | |
| Steve Glassman et al | : | |
| Application No. 11/298,293 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. Google-142 (GP-680-00-US) | : | |

This is a decision on the petition, filed October 10, 2007, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice To File Missing Parts Of Nonprovisional Application mailed January 18, 2006, which set a period for reply of TWO MONTHS. A reply was due on or before March 18, 2006.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of an itemized return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 11, 2006, which included a one month extension of time. A copy of the previously submitted reply accompanies the petition.

MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 11, 2006.

This application is being referred to Technology Center AU 3622 for appropriate action in the normal course of business on the reply received with petition.

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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EDWARDS & ANGELL, LLP
(CLIENT REFERENCE NO. 47992)
PO BOX 55874
BOSTON MA 02205

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Fowler, et al. | : | |
| Application No. 11/298,313 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 58509(47992) | : | |

This is in response to the petition under 37 CFR 1.47(a), filed March 20, 2006.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Unsu Jung, has refused to join in the filing of the above-identified application. The petition, signed by registered practitioner Melissa Hunter-Ensor, states that Ms. Jung is an employee of the Office and has refused to sign the declaration because she is prohibited from applying for a patent while working for the Office. MPEP 309. Petitioners have submitted an acceptable declaration.

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 forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

**MAILED**

JUN 15 2009

OFFICE OF PETITIONS

In re Application of
Alain De la Motte
Application No. 11/298,314
Filed: December 8, 2005
Attorney Docket No. IGR.316

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 11, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

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. Petitioner should note that copendency does not exist between the present application and application no. 11/111,503, thus priority cannot be claimed.

In addition, the amendment is not acceptable as drafted since it improperly incorporates by reference 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). The only application for which an incorporation by reference statement would be acceptable is for application no. 60/634,897 which was claimed upon filing.

As to item (3), 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The statement appearing in the petition varies from the required language.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either a signed Supplemental Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this decision on petition may be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

**Daryl K. Neff**
**4 Eugene Circle**
**Lincoln Park NJ 07035**

In re Application of :
Chulho Kim, et al. :
Application No. 11/298,322 : ON PETITION
Filed: December 8, 2005 :
Attorney Docket No. POU920050033US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 15, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 16, 2009. The Notice of Abandonment was mailed April 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, 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 2466 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

Terri Johnson
Petitions Examiner
Office of Petitions

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SUITE 1210
551 FIFTH AVENUE
NEW YORK NY 10176

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| | | |
|---|---|---|
| In re Application of | : | |
| Ming-Shi Chang | : | |
| Application No. 11/298,329 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 5547-3CIP | : | |

This is a decision on the petition under 37 CFR 1.53 ,filed February 22, 2007, which is properly treated as a petition under 37 CFR 1.182 requesting that the above-identified application be accorded a filing date of December 9, 2005.

The instant application was deposited on December 9, 2005. However, the application omitted a copy of the drawings. Accordingly, on December 29, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed drawings on March 2, 2006, and the present petition on February 22, 2007. Petitioner points out that he incorporated the parent provisional application by reference in page 2 of the specification. Accordingly, petitioner argues that Figures 1 - 6 were incorporated by reference. Regarding Figures 7 - 8, petitioner argues that these figures were not required for an understanding of the invention.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. **A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application.** An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.[1]

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.[2] Here, petitioner omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was able to be accorded at the time of filing. However, page 2 of the specification reveals that petitioner properly incorporated the parent provisional application by reference. In addition, petitioner has submitted the omitted drawing and paid the $400 petition fee. While petitioner has not specifically submitted an amendment seeking entry of the drawing, the petition will be construed as such. Accordingly, the above identified application is entitled to a filing date of December 9, 2005.

In view thereof, the petition is **GRANTED**.

---

[1] MPEP 201.06(c)(emphasis added).

[2] See id.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of December 9, 2005, using the application papers received in the Office on that date and the 8 drawing sheets supplied on petition filed December 9, 2005. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries specific to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kaisheng N. Yao | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7584097 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,332 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **892** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

| | | |
|---|---|---|
| In re Application of | : | |
| Rajiv DOSHI, et al | : | |
| Application No. 11/298,339 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 606492000300 | : | FROM RECORD |
| | : | |

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, 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 Thomas E. Ciotti on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: RICK SHOOP
SHAY LAW GROUP
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

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**Morrison & Foerster LLP**
**755 Page Mill Road**
**Palo Alto, CA 94304-1018**

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OFFICE OF PETITIONS

In re Application of :

Rajiv Doshi et al. :
Application No. 11/298,362 :
Filed: December 8, 2005 :
Attorney Docket No. 606492000400 :

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 11, 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 Thomas E. Ciotti on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rajiv Doshi**
**P.O. Box 18607**
**Stanford, CA 94309**

cc: **Rick Shoop**
**Shay Law Group**
**2755 Campus Drive**
**Suite 210**
**San Mateo, CA 94403**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/298,362 | 12/08/2005 | Rajiv Doshi | 606492000400 |

**CONFIRMATION NO. 6338**

*OC000000025881094*

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 09/18/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

J. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Arya Behzad | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590396 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,371 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **683** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Application of

**BATTISTI,** Peter
Application No. 11/298,376
Filed: December 09, 2005
Attorney Docket No. **1005.109**

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 09, 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, accepting employment with another company, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PETER BATTISTI**
**185 BLUEGRASSVALLEY PKWY**
**ALPHARETTA, GA 30005**

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|---|---|---|
| In re Application of | : | |
| Joan R. V. BOUT | : | |
| Application No. 11/298,377 | : | DECISION ON PETITION |
| Filed: December 09, 2005 | : | |
| Attorney Docket No. **P22911** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 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 $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 29, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2822 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
**CLIFFORD EUGENE GAMMONS** :
Application No. 11/298,399 :
Filed: December 09, 2005 :
Attorney Docket No. **07003-UPA** :
:

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 March 11, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The evidence submitted with the instant petition is a copy of Clifford Gammons's birth certificate indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

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 3679 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| Terentiev | : | UNDER 37 CFR 1.78(a)(3) |
| Application No. 11/298,406 | : | and |
| Filed: December 9, 2005 | : | DECISION ON PETITION |
| Atty Docket No. 642-015 | : | UNDER 37 CFR 1.78(a)(6) |

This is a decision on the PETITION UNDER 37 CFR §1.78, filed March 9, 2010, to accept an unintentionally delayed claim to prior-filed applications 10/398,946 which is a 371 of PCT?US01/31459, which claims benefit of provisional application nos. 60/239,187, 60/282,927 and 60/318,579.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant application was filed after November 29, 2000. A review of the application as filed reveals that the claims for priority set forth on petition were not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) have expired. Thus, the instant petition is appropriate. In addition, the petition includes payment of the surcharge and the required statement of unintentional delay.

On petition, a reference to the prior-filed nonprovisional and provisional applications has been included in an amendment, as required by 37 CFR 1.78(a)(2)(iii) and (a)(5)(iii). With respect to 35 U.S.C. 120 and 37 CFR 1.78(a)(3), the amendment includes a reference to prior-filed application No. 10/398,946, with the appropriate relationship stated as continuation-in-part.

With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), this pending nonprovisional application was filed on December 9, 2005. The filing date of all 3 provisional applications for which priority is claimed is within twelve months of intermediate application No. 10/398,946, filed October 9, 2001. Further, the claim for benefit of priority under 35 U.S.C. § 119(e) of the 3 prior-filed provisional applications was properly made in 10/398,946 during the pendency of the application (before the application issued as a patent).

Applicant has properly claimed the benefit of the provisional applications by claiming the benefit of an intermediate copending nonprovisional application. In other words, this application has properly claimed the benefit of the intermediate nonprovisional application under 35 U.S.C. 120; and the intermediate application was filed not later than 12 months after the filing date of the provisional application; and both this later-filed application and the intermediate application have claimed the benefit of the provisional application under 35 U.S.C. 119(e).

A review of the application history reveals that the provisional application filing fee was paid in all 3 prior-filed provisional applications.

A request for correction of inventorship is pending in this application. A review of this request reveals that it has no effect on the instant petition.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. § 120 and 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and (a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and §§119(e) and 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1797 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) of the prior-filed applications as set forth in the amendment filed March 9, 2010.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/298,406 | 12/09/2005 | 1797 | 1550 | 642-015 | 21 | 3 |

**CONFIRMATION NO. 6192**

**REPLACEMENT FILING RECEIPT**

1009
KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

*OC000000041461732*

Date Mailed: 05/05/2010

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)**

Alexandre N. Terentiev, Lexington, KY;

**Power of Attorney:** The patent practitioners associated with Customer Number 001009

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/491,512 04/01/2004 PAT 7,481,572
and claims benefit of 60/634,664 12/09/2004
and said 10/491,512 04/01/2004
is a CIP of 10/398,946 04/08/2003 PAT 7,086,778
which is a 371 of PCT/US01/31459 10/09/2001
which claims benefit of 60/239,187 10/09/2000
and claims benefit of 60/282,927 04/10/2001
and claims benefit of 60/318,579 09/11/2001

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/20/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/298,406**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

MIXING VESSEL WITH A FLUID-AGITATING ELEMENT SUPPORTED BY A ROLLER BEARING

**Preliminary Class**

366

## 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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www.uspto.gov

**THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., PC**
**401 W. FALLBROOK AVEUNE, SUITE 204**
**FRESNO, CA 93711-5835**

**COPY MAILED**

JUL 16 2009

**OFFICE OF PETITIONS**

In re Application of
**Han-Jen CHANG, et al.**
Application No. 11/298,412
Filed: December 8, 2005
Attorney Docket No. **IPTE.0169**

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 10, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., PC** has been revoked by the assignee of the patent application on April 22, 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: **JUAN CARLOS A. MARQUEZ**
**REED SMITH, LLP**
**3110 FAIRVIEW DRIVE, SUITE 1400**
**FALLS CHURCH, VA 22042**

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David Boyd Melvin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7658705 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,430 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **620** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**LAW OFFICE OF PHILIP A STEINER**
**1212 MARSH STREET, SUITE 3**
**SAN LUIS OBISPO, CA 93401**

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MAR 17 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **ROSENBERG**, Louis B. | : | |
| Application No. 11/298,434 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **3502.134** | : | FROM RECORD |
| | : | |

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 4, 2007 and re-submitted October 5, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **LAW OFFICE OF PHILIP A. STEINER** has been revoked by the applicant of the patent application on October 31, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP**
**1010 PEACH STREET**
**P.O. BOX 31**
**SAN LUIS OBISPO, CA 93406**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/298,434 | 12/09/2005 | Louis B. Rosenberg | 3502.134 | 6337 |

7590 05/16/2008
SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO, CA 93406

| EXAMINER |
|---|
| SAGER, MARK ALAN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3714 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/16/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/16/2008 NFARMER
12/13/2005 STEUMEL1 00000073 502086 11298434
02 FC:2111 250.00 CR



FORM PET651G (Rev. 08/07)

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA
CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

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FEB 06 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Llinas-Brunet et al. | : | |
| Application No. 11/298,443 | : | ON APPLICATION FOR |
| Filed: December 10, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 13-0117-1-C1 | : | |

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed January 6, 2009. Applicants request that the determination of patent term adjustment be increased by one hundred twenty-five (125) days to four hundred fifty-seven (457) days, if the patent issues on Tuesday, April 14, 2009. Applicants request 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).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 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.

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 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 Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/298,457 | 12/12/2005 | Oh-hyun Kwon | Q91322 | 4465 |

7590 05/26/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER |
|---|
| TRAN, THAI Q |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/26/2009 | 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.

Miomi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
05/26/2009 NFARMER 0000167313

CHECK Refund Total: $750.00

Adjustment date: 05/26/2009 NFARMER
12/14/2005 KBETEMA1 00000006 11298457
02 FC:1111 -500.00 OP
04 FC:1202 -250.00 OP



FORM PET651G (Rev. 08/07)

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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

11/17/08

In re Application of: SUTTON, DENNIS :
Appl. No.: 11/298,476 : DECISION ON PETITION
Filed: Dec. 12, 2005 :
For: EXTENSION FOR A TURBINE VENTILATOR :

This is a decision on the petition filed on Oct. 20, 2008 by which petitioners request acceptance of a duplicate response filed under 37 CFR 1.116. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

On Jan. 8, 2008 a Final Office Action was issued in the instant file. An amendment after final was filed by petitioner on Apr. 7, 2008 as indicated in the petition. This paper was not received by the Office, as the file does not show receipt of any response filed on Apr. 7, 2008. Petitioner has submitted an evidentiary copy of the Apr. 7, 2008 response along with a copy of a post card receipt clearly indicating a response to office action dated Jan. 8, 2008 was received by the office on Apr. 7, 2008. Petitioner has also included a statement attesting the duplicate papers represent a true copy of the response filed on Apr. 7, 2008. Based upon this evidence, the duplicate response is accepted. However, this application is under final rejection. It is the applicant's responsibility to take the necessary action in an application under final Office action to provide a complete reply under 37 CFR 1.113. The applicant has taken no action to make any inquiry after the filing of the response on Apr. 7, 2008. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal. The last day an RCE, continuing application, or Notice of Appeal could have been filed, with the maximum allowed three month extension of time, would have been Jul. 8, 2008.

Under the circumstances, the requested withdrawal of the holding of abandonment cannot be granted. This application remains abandoned as of Apr. 9, 2008 for failure to file a Notice of Appeal or an RCE.

Any Request for Reconsideration of Petition must be made within TWO (2) MONTHS from the mail date of this decision under 37 CFR § 1.181(f). No 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 1.181". Alternatively, the applicant may wish to consider filing a petition to revive under 37 CFR 1.137(b). The rules and MPEP sections cited, along with the fees associated for each may be found on the USPTO website at: www.uspto.gov. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

According, the petition is dismissed.

Donald T. Hajec, Director
Technology Center 3700

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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SEP 18 2007

**OFFICE OF PETITIONS**

Applicant: James E. Galen
Appl. No.: 11/298,526
Filing Date: December 12, 2005
Title: USE OF CLYA HEMOLYSIN FOR EXCRETION OF PROTEINS
Attorney Docket No.: A9060
Pub. No.: 2006/0147461 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 August 23, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as Figure 4 of Applicant's drawing has been replaced in the publication with a drawing from another application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in the publication with respect to the drawing is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the drawings in the publication is not a material mistake because the application is a Division of U.S. Application 09/993,292 filed November 23, 2001, now U.S. Patent No. 7,056,700 and U.S. Patent Application Publication 2006/0147461 A1. Since, the parent application, which is also incorporated by reference is published and contains the information printed correctly, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

The corrected drawings received by the Office on December 13, 2005, which was improperly scanned into this application and published have been relabeled as a miscellaneous letter.

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.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

**ROBERT W. STROZIER**
**P.O. BOX 429**
**BELLAIRE TX 77402-0429**

| | | |
|---|---|---|
| In re Application of | : | |
| Joaquin Cortiella et al | : | |
| Application No. 11/298,543 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 98006/29UTL | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 17, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application mailed January 31, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

A properly signed oath or declaration in compliance with 37 CFR 1.63 is required. The declaration submitted with the petition on May 17, 2007, is not an executed declaration as required by the Notice of January 31, 2006. The signature of co-inventor Koji Kojima is missing.

**Petitioner is encouraged to note the provisions of 37 CFR 1.47(a).**

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ROBERT W. STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of :
Joaquin Cortiella et al :
Application No. 11/298,543 : DECISION GRANTING PETITION
Filed: December 9, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 98006/29UTL :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 5, 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 executed declaration and requires fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application mailed January 31, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Patent Application Processing for pre-exam processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**NILS H. LJUNGMAN & ASSOCIATES**
**P. O. BOX 130**
**GREENSBURG,PA 15601-0130**

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MAY 13 2010

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| | | |
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| In re Application of | : | |
| Wanli et al. | : | |
| Application No. 11/298,559 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. NHL-WOL-01 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 17, 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 August 18, 2007. A Notice of Abandonment was mailed February 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 an election of the invention to be examined, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 3724 for further examination on the merits.

Carl Friedman
Petitions Examiner
Office of Petitions

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mihai Albulet | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664537 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,571 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Myung-jin Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648652 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,576 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1016** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. |
|---|---|---|---|---|
| 11/298,582 | 12/12/2005 | Fumio Haruna | 058799-0155 | 6837 |

7590 10/30/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

| EXAMINER |
|---|
| CARTER III, ROBERT E |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/30/2008 | 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 10/30/2008 NFARMER
12/14/2005 HMARZI1 00000072 500417 11298582
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR



FORM PET651G (Rev. 08/07)

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAIL

MAY 1 0 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Atsushi Kobaru, et al. :
Application No. 11/298,590 :
Filed: Decemer 12, 2005 :
For: **IMAGE FORMING METHOD AND CHARGED PARTICLE BEAM APPARATUS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 23, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (4) in that the search method was not fully discussed. When a database is used in searching, the search term logic employed should be set forth in the petition.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition giving the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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MAIL

AUG 16 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of
Atsushi Kobaru, et al.
Application No. 11/298,590
Filed: December 12, 2005
For: **IMAGE FORMING METHOD AND CHARGED PARTICLE BEAM APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed June 6, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zelé
Special Program Examiner
Technology Center 2600
Communications

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Hiroshi Shimura | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7599081 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,615 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **883** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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17 JAN 2006

LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH, PA 15275-1112

| | | |
|---|---|---|
| In re Application of MESEGUER et al | : | |
| U.S. Application No.: 11/298,641 | : | |
| PCT Application No.: PCT/EP04/05930 | : | |
| Int. Filing Date: 02 June 2004 | : | DECISION |
| Priority Date Claimed: 13 June 2003 | : | |
| Attorney Docket No.: CH-8412/LeA 36,555 | : | |
| For: CHIRAL LIGANDS FOR APPLICATION IN | : | |
| ASYMMETRIC SYNTHESES | : | |

This is in response to applicant's "Petition to Covert Application to an Application Under 35 U.S.C. §371" filed 04 January 2006, which is being treated under 37 CFR 1.182.

## BACKGROUND

On 02 June 2004, applicant filed international application PCT/EP04/05930, which claimed priority of an earlier Germany application filed 13 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 13 December 2005.

On 08 December 2005, applicant submitted application papers with the USPTO including, *inter alia*, a Utility Patent Application Transmittal (Form PTO/SB/05).

On 04 January 2006, applicant filed the present petition under 37 CFR 1.182.

## DISCUSSION

The petition states that applicant inadvertently filed the present application under 35 U.S.C. 111(a) instead of a national stage application under 35 U.S.C. 371. The petition requests that the present application be converted to a national stage application under 35 U.S.C. 371.

U.S. statutes and regulations do not make specific provision for the requested conversion and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, applicant has failed to make such a showing. Applicant is advised that because international application PCT/EP04/05930 designated the United States, the present application may be treated as a continuation of international application PCT/EP04/05930, with no loss of priority rights, if the requirements of 35 U.S.C. 120 are met. See MPEP 1895.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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Commissioner for Patents
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/298,641 | 12/08/2005 | Benjamin Meseguer | CH-8412/LeA 36,555 |

LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH PA 15275-1112

DATE MAILED: August 31, 2007

**DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)**
*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(d) filed on August 10, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Katsunori Takayama | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7652079 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,653 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

**COPY MAILED**

NOV 13 2006

**OFFICE OF PETITIONS**

In re Application of :
Sean O'Donoghue :
Application No. 11/298,663 : DECISION REFUSING STATUS
Filed: December 12, 2005 : UNDER 37 CFR 1.47(b)
Attorney Docket No. NEL-0026 :
**For:** SOLAR POWERED BATTERY CHARGER WITH VOLTAGE REGULATION CIRCUIT APPARATUS AND METHOD

This is a decision on the petition under 37 CFR 1.47(b), filed July 25, 2006.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on December 12, 2005, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on January 25, 2006, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on July 25, 2006, with a request for an extension of time within the fourth month.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition has not satisfied items (1) and (5) above. As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application paper should be sent to the last known address of the non-signing inventor . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

While the instant petition suggests that inventor O'Donoghue is refusing to join the prosecution of the application, it is not clear whether he was provided with a complete copy of the application papers, not

just the assignment and declaration. The renewed petition must be accompanied by evidence that an attempt was made to present inventorO'Donoghue with a complete copy of the application papers.

As to item (2),, Section 409.03(f) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer ( 37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner has not established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to prosecute the application. The petition states that the non-signing inventors agreed to assign their rights to the subject invention to the 37 CFR 1.47(b) applicant, however, no copy of an agreement to that effect

accompanied the instant petition. Being careful to adhere to the guidance provided above, the renewed petition must establish that the non-signing inventor assigned, or agreed to assign, their rights to the invention to the 37 CFR 1.47(b) applicant, or that a court of competent jurisdiction would award title of the invention to the 37 CFR 1.47(b) applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
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

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

**COPY MAILED**

JUN 11 2007

**OFFICE OF PETITIONS**

In re Application of :
Sean O'Donoghue :
Application No. 11/298,663 : DECISION ACCORDING STATUS
Filed: December 12, 2005 : UNDER 37 CFR 1.47(b)
Attorney Docket No. NEL-0026 :
**For:** SOLAR POWERED BATTERY CHARGER WITH VOLTAGE REGULATION CIRCUIT APPARATUS AND METHOD

This is in response to the renewed petition under 37 CFR 1.47(b), filed May 14, 2007.

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

The above-identified application was filed on December 12, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on January 25, 2006, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(b) was filed on July 25, 2006, and dismissed by a decision mailed November 13, 2006. The instant renewed petition was filed on May 14, 2007, with a request fro an extension of time within the fourth month.

By the instant petition and evidentiary documents, petitioner has established that the sole inventor has constructively refused to join the prosecution of the application and that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE
## CERTIFICATE OF CORRECTION



PATENT NO. : 7,554,380

APPLICATION NO.: 11/298/667

ISSUE DATE : June 30, 2009

INVENTOR(S) : Sherif H.K. EMBABI; Alan R. HOLDEN; Jason P. JAEHNIG; Abdellatif BELLAOUAR

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Front Page delete "15 Claims" and insert therefor -- 13 Claims --;

Column 11, lines 61 - 67, delete Claim 10; and

Column 12, lines 1 - 6, delete Claim 11.

OK TO ENTER: /TL/ (09/02/2009)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Shin Hung (Reg. No. 55,497)
Borden Ladner Gervais LLP, 1100-100 Queen Street, Ottawa, Ontario K1P 1J9 CANADA

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | |
|---|---|
| In re Application of: | EMBABI, Sherif, H.K.; HOLDEN, Alan, R.; JAEHNIG, Jason, P.; BELLAOUAR, Abdellatif |
| Serial No.: | 11/298,667 (now Patent No. 7,554,380) |
| Filed: | December 12, 2005 |
| Title: | A SYSTEM FOR REDUCING SECOND ORDER INTERMODULATION PRODUCTS FROM DIFFERENTIAL CIRCUITS |
| Group: | 2816 |
| Examiner: | |
| Attorney Ref.: | PAT 2824-2 US |

July 24, 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia
22314-1450, U.S.A.

**Attention: Office of Data Management**

Dear Sir:

**REQUEST FOR CERTIFICATE OF CORRECTION**

On behalf of the patentee, we hereby request that a Certificate of Correction be issued pursuant to 37 C.F.R. 1.322, to correct the error made by the Office as shown in the attached in form PTO/SB/44 submitted herewith.

The error was introduced by the Office, as shown in the attached Amendment After Allowance filed May 27, 2009. We also attached a copy of the Response to Rule 312 Communication, which acknowledges receipt of the amendment filed May 27, 2009. Accordingly, no fee is payable by the Applicant pursuant to 35 U.S.C. 254.

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments, to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Respectfully submitted,
**Sherif H.K. EMBABI et al.**

By: /Shin Hung/

**Shin Hung**
**Reg. No. 55,497**
Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9
CANADA
Tel: (613) 237-5160
Fax: (613) 787-3558
E-mail: ipinfo@blgcanada.com

SHH/aab
ALK/RSO/rso
Encls.
1.Certificate of Correction
2. Amendment After Allowance (Filed May 27, 2009)
3. Response to Rule 312 Communication

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:200911021

**DATE** : November 2, 2009

**TO SPE OF** : ART UNIT 2816

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7554380

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:** /Donovan Lincoln/ **Art Unit** 2816

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLOBAL IP COUNSELORS LLP
1233 20TH STREET NW SUITE 700
WASHINGTON DC 20036-2680

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NOV 14 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Naoyuki Toyoda | : | |
| Application No. 11/298,704 | : | ON PETITION |
| Filed: December 12, 2005 | : | |
| Attorney Docket No. SE-US055240 | : | |

This is a decision on the petition to revive under 37 CFR 1.137(a), filed October 10, 2007.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed March 12, 2007. This Notice set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 13, 2007. The Office mailed a Notice of Abandonment on September 25, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). 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.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Petitioner argues that he never received the non-final Office action mailed March 12, 2007. With the instant petition, petitioner has satisfied the requirements to establish non-receipt of an Office action. In particular, petitioner has submitted a copy of a docket report showing all replies docketed for a due date of June 12, 2007. An entry for the instant application is absent, supporting the conclusion that the Office action was not received.

In view of the above, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

The application is being forwarded to Group Art Unit 2826 for consideration of the Amendment filed October 10, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/298,705 | 12/12/2005 | Etsuo Nakai | SN-US050514 |

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

DATE MAILED: June 1, 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 May 19, 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.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

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FEB 27 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Nakai et al. | : | |
| Application No. 11/298,705 | : | DECISION ON PETITION |
| Filed: 12/12/2005 | : | |
| Attorney Docket No. SN-US050514 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 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 decision.

On May 19, 2006, petitioners, through their attorney, filed a Petition for Express Abandonment Under 37 CFR 1.138(d) to Obtain a Refund. On June 1, 2006, the Office mailed a Decision Granting Petition Under 37 CFR 1.138(d), which stated that the express abandonment was recognized and any previously paid search fee and excess claims fee were refunded. On June 20, 2006, petitioners filed the present petition under 37 CFR 1.137(b).

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The 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);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may

> require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not satisfy requirement (3) above.

In the present petition, petitioners provided the following explanation as to the abandonment of this application:

> Shimano Inc. unintentionally abandoned this application on May 19, 2006. During cost saving procedures at Shimano Inc., a number of applications at the United States Patent & Trademark Office were abandoned. A letter was sent to Applicants' representative requesting to stop prosecution for this application. However, Applicants did not want to abandoned patent protection for this product in the United States. The letter sent to Applicants' representative was not meant for the above-identified application. Thus, the above-identified application was unintentionally abandoned. The entire delay in filing this petition under 37 CFR 1.137(b) was unintentional.

The Office notes: "[t]he abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as 'unintentional' within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See Application of G, 11 USPQ2d at 1380." MPEP 711.03(c)(II)(D).

> An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:
>
> (A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;
>
> (B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
>
> (C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.
>
> Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Maldague, 10 USPQ2d at 1478.

MPEP 711.03(c)(II)(D).

Here, petitioners did not provide the Office with a copy of the letter sent to their representative to stop prosecution of this application. Furthermore, petitioners did not submit any statements from persons with first-hand knowledge of the events that led up to the filing of the petition under 37 CFR 1.138(d). Lastly, petitioner failed to provide a **thorough** explanation as to how this mistake occurred. Therefore, petitioners have not made a sufficient showing that the delay was unintentional.

With any renewed petition, petitioners must submit all relevant correspondence between the attorney and Shimano Inc. Additionally, petitioners must include a **detailed** explanation as to why the mistake in filing an express abandonment under 37 CFR 1.138(d) can reasonably be considered unintentional. Petitioners must provide statements of persons with first-hand knowledge of the matter. Lastly, petitioners must show that the decision to abandon this application was not a deliberately chosen course of action based on the financial success of or interest in the invention.

A review of the Office finance records indicates that the USPTO refunded the $500.00 search fee to petitioners. Therefore, the Deposit Account will be charged the $500.00 search fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1233 20TH STREET, NW, SUITE 700
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SEP 17 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| Nakai et al. | : | |
| Application No. 11/298,705 | : | |
| Filed: 12/12/2005 | : | |
| Attorney Docket No. SN-US050514 | : | |

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 26, 2007, to revive the above-identified application.

On May 19, 2006, petitioners, through their attorney, filed a Petition for Express Abandonment Under 37 CFR 1.138(d) to Obtain a Refund. On June 1, 2006, the Office mailed a Decision Granting Petition Under 37 CFR 1.138(d), which stated that the express abandonment was recognized and any previously paid search fee and excess claims fee were refunded. On June 20, 2006, petitioners filed a petition under 37 CFR 1.137(b). On February 27, 2007, the Office dismissed the petition and requested that petitioners provide additional information to show that the entire delay was unintentional.

On April 26, 2007, petitioners filed the present petition and a copy of the letter sent to patent counsel that led to the filing of the petition under 37 CFR 1.138(d). In support of the present renewed petition, petitioners provided the Office with the Declaration of Takuji Tasumi, an employee of Shimano, who is in charge of managing outside patent counsel for the purpose of obtaining patent rights for Shimano.

After a thorough review of the facts specific to this case and the supporting documentation, the Office concludes that petitioners have shown that the abandonment of the application was not the result of a deliberate cause of action by petitioners. Rather, petitioners have established that the entire delay was unintentional. Accordingly, the petition is **granted**.

This matter is being referred to the Office of Initial Patent Examination for further processing as a pending application.

Telephone inquiries specific 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

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

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Peter Joel Meschter | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7595114 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,735 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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OWENS-ILLINOIS, INC.
ONE MICHAEL OWENS WAY, THREE O-I PLAZA
PERRYSBURG OH 43551-2999

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Application of
Norman C. Pessoa :
Application No. 11/298,759 : ON PETITION
Filed: December 9, 2005 :
Attorney Docket No: 02091A/17955-01 :

This is a decision on the petition under 37 CFR 1.137(a)[1], filed November 24, 2009, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned April 25, 2009 for failure to file a timely response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 25, 2009. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The instant petition is filed with an amendment in response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 25, 2009 in addition to an argument that the delay in timely filing the response was unavoidable.

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

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

> business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

While the address on the amendment filed March 4, 2009 as well as the address on the instant petition are that of Attorney Phillip Rice and both differ from the address of record, petitioners are advised that the address of record is taken from the Oath or Declaration. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c ).

A review of the file record discloses that the Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed to the address of record. However, petitioner contends that it was not received. In support of this contention, copies of pages from the incoming mail log wherein receipt of the March 25, 2009 Notice would have been entered, had it been received, accompany the petition. The submissions provided, corroborate non-receipt of the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 25, 2009. It is presumed however that the incoming mail log is that of the assignee, OWENS-ILLINOIS, INC., and not that of EMCH, SCHAFFER, SCHAUB & PORCELLO CO., L.P.A. P.O. Box 916 Toledo, Ohio 43697 since the address for OWENS-ILLINOIS, INC., is the address of record. Petitioner must notify the Office if this is **not** a correct interpretation of the incoming mail log submitted as "Exhibit A".

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In view of the facts set forth in the petition, it is concluded that the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 29, 2009 was never received. Accordingly, this matter is being referred to Technology Center 1791 for treatment of the amendment filed with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

**UNITED STATES DEPARTMENT OF COMMERCE**
**United States Patent and Trademark Office**
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/298,775 | 12/09/2005 | Paul Youn | OR05-18401 | 6749 |

51067 7590 04/17/2009
PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

| EXAMINER |
|---|
| ARMOUCHE, HADI S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2432 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/17/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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P.O. Box 1450
Alexandria, Virginia 22313-1450

| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---|---|---|---|
| 11298775 | 12/9/2005 | YOUN, PAUL | OR05-18401 |

| EXAMINER |
|---|
| HADI ARMOUCHE |

| ART UNIT | PAPER |
|---|---|
| 2432 | 20090413-A |

PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

In view of the papers filed on February 02, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Daniel ManHung Wong, such that the current inventorship is now Paul Youn and Daniel ManHung Wong.

The petition has been Granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/Gilberto Barron Jr./
Supervisory Patent Examiner, Art Unit 2432

/HADI ARMOUCHE/
Examiner, Art Unit 2432

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
(Roche)
11 SOUTH MERIDAN STREET
INDIANAPOLIS IN 46204

| | |
|---|---|
| In re Patent No. 7,547,535 | : |
| KRATZSCH et al. | : |
| Issue Date: June 16, 2009 | : DECISION ON REQUEST FOR |
| Application No. 11/298,778 | : RECONSIDERATION OF |
| Filed: December 9, 2005 | : PATENT TERM ADJUSTMENT |
| Attorney Docket No. 5727-79190 | : |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(D) filed July 9, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from two hundred sixty-five (265) days to four hundred fifty-four (454) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 265 days.

The above-identified application was filed on December 9, 2005. On June 16, 2009, the above-identified application matured into U.S. Patent No. 7,547,535 with a revised patent term adjustment of 265 days. The Office determined that the 189 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR 1.702(b),

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[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under

overlap with the 349 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1).[3] As such, the Office allowed entry of only the period of adjustment of 349 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 84 days of applicant delay, the patent issued with a revised patent term adjustment of 265 days.

On July 9, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 454 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). 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 total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 538 (349 + 189) days as these periods do not occur on the same days. Given the 84 days of applicant delay, patentees assert entitlement to 454 days of patent term adjustment.

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35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application[.]

[2] The Office did not mail a Restriction Requirement until January 24, 2008, 14 months and 349 days after the application was filed on December 9, 2005.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office 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

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[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

§ 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on December 9, 2005, and ending on the date of the issuance of the patent on June 16, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 349 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 189 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All 189 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 349 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 189 days and the 349 days is neither permitted nor warranted. 349 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 189 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 265 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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**TAROLLI, SUNDHEIM, COVELL**
**& TUMMINO L.L.P.**
**1300 EAST NINTH STREET, SUITE 1700**
**CLEVELAND, OH 44114**

COPY MAILED Re-mail

JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
George Bevan Kirby MEACHAM :
Application No. 11/298,788 : DECISION ON PETITION
Filed: December 9, 2005 : TO WITHDRAW

Attorney Docket No. CCF-7901NP : FROM RECORD

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 4, 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

cc: G. B. KIRBY MEACHAM
MEACHAM COMPANY
18560 PARKLAND DRIVE
CLEVELAND, OH 44122

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Cheol-Ho Jo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7657254 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,801 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **597** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : L. DuWayne Hines | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7650003 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,815 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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S.N. 11/298834

Date Mailed: September 26, 2008
Patent No. :7,417,546 B1
Ser. No. :10/129906
Inventor(s) :Pascal Llorca, et al.
Title :METHOD AND RFID SYSTEM FOR PROVIDING A SERVICE

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

**Magdalene Talley**
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

FINNEGAN, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Ave., NW
Washington, DC 20001-4413

MD/mt

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

**COPY MAILED**

JAN 07 2009

| | | |
|---|---|---|
| In re Patent No. 7,417,546 | : | |
| Issue Date: August 26, 2008 | : | |
| Application No. 11/298,834 | : | ON PETITION |
| Filed: December 12, 2005 | : | |
| Attorney Docket No. 08005.0014-00 | : | |

This is a decision on the petition filed August 26, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

It is noted that petitioner overpaid the requisite surcharge for treatment of the present petition by $130. Therefore, $130 is being credited to counsel's deposit account.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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**L. WAYNE WHITE**
**WHITE & ASSOCIATES**
**3935 E. WISTERIA CIRCLE**
**SUGAR LAND, TX 77479-2821**

**COPY MAILED**

AUG 07 2007

**OFFICE OF PETITIONS**

ON PETITION

In re Application of :
Moody et al. :
Application No. 11/298,837 :
Filed: December 9, 2005 :
Attorney Docket No. 0015 :

This is a decision on the petition under 37 C.F.R. § 1.182, filed July 19, 2007, to change the name of an inventor.

The petition is **DISMISSED.**

Petitioner submitted $130.00 towards payment of the $400.00 petition fee. Accordingly, an additional $270.00 must be submitted.

Petitioner is reminded that 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, petitioner should filed a renewed petition prior to payment of the issue fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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**L. WAYNE WHITE**
**WHITE & ASSOCIATES**
**3935 E. WISTERIA CIRCLE**
**SUGAR LAND, TX 77479-2821**

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AUG 3 1 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| White et al. | : | |
| Application No. 11/298,837 | : | ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 0015 | : | |

This is a decision on the renewed petition under 37 C.F.R. § 1.182, filed August 13, 2007, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Christina Kay MOODY to Christina Kay WHITE.

This matter is being directed to the Publishing Division to await payment of the issue fee.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Publishing Division.

Liana Walsh
Petitions Examiner
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 | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/298,837 | 12/09/2005 | 2837 | 500 | 0015 | 1 | 1 |

**CONFIRMATION NO. 6648**

**CORRECTED FILING RECEIPT**

*OC000000025605340*

L. Wayne White
White & Associates
3935 E. Wisteria Circle
Sugar Land, TX 77479-2821

Date Mailed: 08/29/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Christina Kay White, Austin, TX;
Atif Muzaffar Qureshi, Houston, TX;
Vikramjit Singh, Austin, TX;
Jarden Ellison Krager, Austin, TX;
Jennifer Elizabeth Porlier, Austin, TX;
Kristin Lee Wood, Austin, TX;
Richard Haygood Crawford JR., Austin, TX;

**Power of Attorney:**

L White--25415

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/23/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/298,837**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

MODULAR AUTOMATED ASSISTIVE GUITAR

**Preliminary Class**

084

## 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

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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United States Patent and Trademark Office
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**RISTO A. RINNE, JR.**
**COMPLETE PATENTING SERVICES**
**2173 EAST FRANCISCO BOULEVARD,**
**SUITE E**
**SAN RAFAEL CA 94901**

**COPY MAILED**

JUL 19 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Eugene Lee Tresenfeld | : | |
| Application No. 11/298,843 | : | DECISION GRANTING PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. TRESENFELD5 | : | |

This is a decision on the petition, filed February 23, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 7, 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 October 25, 2007 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2612 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Address: COMMISSIONER FOR PATENTS
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|---|---|---|---|
| 11/298,843 | 12/08/2005 | Eugene Lee Tresenfeld | TRESENFELD5 |

**CONFIRMATION NO. 6630**

45498
RISTO A. RINNE, JR.
COMPLETE PATENTING SERVICES
2173 EAST FRANCISCO BOULEVARD, SUITE E
SAN RAFAEL, CA 94901

Date Mailed: 07/18/2007

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/25/2007.

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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**RISTO A. RINNE, JR.**
**COMPLETE PATENTING SERVICES**
**4525 MONTGOMERY DRIVE**
**SUITE 10**
**SANTA ROSA CA 95409-5358**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Eugene Lee Tresenfeld | : | |
| Application No. 11/298,843 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. TRESENFELD5 | : | |

This is a decision on the petition, filed January 15, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 25, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 25, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on September 29, 2008, which included the following papers: Amendment/Response, Extension of time (2 months), Request for Continued Examination and check for $230.00. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated September 25, 2008, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received

in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 25, 2008 is hereby withdrawn and the application restored to pending status.

Petitioner should be aware that some of the papers submitted on September 29, 2008, bear the application no. as 11/298,243 instead of the correct application no. 11/298,843. Office records show that the papers were placed in application no. 11/298,243 and not 11/298,843 the intended application. The copy of the reply received in application no. 11/298,243 on September 29, 2008, will be placed in application no. 11/298,843.

Additionally, it is not clear why petitioner submitted a petition to revive form PTO/SB/64, and indicated on the petition form that no fee was required. Therefore, the matter under 37 CFR 1.137(b) is dismissed as moot.

This application is being referred to Technology Center AU 2612 for appropriate action in the normal course of business.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**NELSON MULLINS RILEY & SCARBOROUGH, LLP**
**1320 MAIN STREET, 17TH FLOOR**
**COLUMBIA, SC 29201**

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DEC 02 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hetherington et al. | : | DECISION ON PETITION |
| Application No. 11/298,868 | : | TO WITHDRAW |
| Filed: December 9, 2005 | : | FROM RECORD |
| Attorney Docket No. 41832/5321 | : | |

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 9, 2009.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the previous power of attorney was revoked by the assignee on August 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

The instant application became abandoned for failure to timely and properly respond to the Office action mailed April 23, 2009.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JELD-WEN, INC. - STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

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OFFICE OF PETITIONS

GROOVER & HOLMES
BOX 802889
DALLAS, TX 75380-2889

In re Application of
John D. Larue
Application No. 11/298,928
Filed: December 9, 2005
Attorney Docket No. LARU-11

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 9, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 11, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition is found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 15, 2007 accompanies this decision on petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2876 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: ROBERT GROOVER
GROOVER & HOLMES
ONE GALLERIA TOWER, SUITE 1950
13355 NOEL ROAD
DALLAS, TX 75240

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|---|---|---|---|
| 11/298,928 | 12/09/2005 | John D. LaRue | LARU-11 |

**CONFIRMATION NO. 4783**

29106
GROOVER & HOLMES
BOX 802889
DALLAS, TX 75380-2889

Date Mailed: 08/09/2007

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/15/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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OCT 23 2007

**OFFICE OF PETITIONS**

**MORRISON & FOERSTER LLP**
**1650 TYSONS BOULEVARD, SUITE 400**
**MCLEAN, VA 22102**

| | | |
|---|---|---|
| In re Application of | : | |
| **DI GREGORIO**, et al. | : | |
| Application No. 11/298,935 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **QIM 2004 P 53573 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 May 2, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on June 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SLATER & MATSIL LLP**
**17950 PRESTON ROAD, SUITE 1000**
**DALLAS, TX 75252**

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REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD, IL 61107

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Sam A. Hopkins | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7578344 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/298,950 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **7** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**KING & SPALDING LLP**
**P.O. BOX 889**
**BELMONT CA 94002-0889**

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| | | |
|---|---|---|
| In re Application of | : | |
| Chih-Ping LIU et al. | : | |
| Application No. 11/298,955 | : | DECISION ON PETITION |
| Filed: December 09, 2005 | : | |
| Attorney Docket No. 55600.8014.US08 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 05, 2008, 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 October 17, 2007, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of October 17, 2007 is accepted as having been 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 1647 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.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petition

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BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Robert Vincent Canning JR. | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639862 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/298,958 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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FEB 14 2008

**OFFICE OF PETITIONS**

In re Application of
Paul A. Zwirksoki
Application No. 11/298,961
Filed: December 9, 2005
Attorney Docket No. 595022000120

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 10, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles D. Holland 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: PAUL A. ZWIRKOSKI
5126 GIRARD DRIVE
PINCKNEY MI 48169-8730

cc: JOHN G. POSS, ESQ.
GIFFORD, KRASS, SPRINKLE, ANDERSON
& CITIKOWSKI, PC
303 DETROIT STREET
SUITE 300
ANN ARBOR, MI 48104-1144

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/298,961 | 12/09/2005 | Paul A. Zwirkoski | 595022000120 |

**CONFIRMATION NO. 6035**

**POWER OF ATTORNEY NOTICE**

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

*OC000000028231103*

Date Mailed: 02/11/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2007.

- 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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MAY 23 2008

**PERKINS COIE LLP**
**P.O. BOX 2168**
**MENLO PARK, CA 94026**

| | | |
|---|---|---|
| In re Application of | : | |
| Chih-Ping LIU, et al | : | |
| Application No. 11/298,972 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 55600-8014 US09 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 9, 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 October 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 $770; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1647 for appropriate action by the Examiner in the normal course of business on the reply received February 29, 2008.

April Wise
Petitions Examiner
Office of Petitions

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PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON, IA 50131-0552

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of
Zuo-Yu Zhao, Dennis L. Bidney,
Evan D. Elsing, Michael D. Miller,
Xinli E. Wu and William J. Gordon-Kamm
Application No. 11/298,973
Filed: December 9, 2005
For: DOUBLED HAPLOID CELLS,
EMBRYOS AND PLANTS

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 25, 2006.

The petition is **granted**.

Petitioner has shown that non-signing inventor Evan D. Elsing has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 1600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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EVAN D. ELSING
P.O. BOX 1005
KEKAHA, KAUAI, HI 96752

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of
Zuo-Yu Zhao, Dennis L. Bidney, Evan D. Elsing, Michael D. Miller, Xinli E. Wu and William J. Gordon-Kamm
Application No. 11/298,973
Filed: December 9, 2005
For: DOUBLED HAPLOID CELLS, EMBRYOS AND PLANTS

Dear EVAN D. ELSING:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON, IA 50131-0552

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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APR 17 2006
OFFICE OF PETITIONS

In re Application of :
Hasegawa, et al. :
Application No. 11/298,976 : ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. 281778US2 :

This is a decision on the papers styled, "Petition Regarding Notice To File Missing Parts," filed March 20, 2006, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 12, 2005, including page 71 of the specification.

The application was filed on December 12, 2005. However, on January 24, 2006, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 71 of the specification appears to have been omitted.

In response, on March 20, 2006, the instant petition and a copy of page 71 of the specification were submitted. The petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of "86 pp. Specification" on December 12, 2005. A review of the application file indicates the presence of eighty-five (85) pages of specification. It is assumed that page 71 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee will be refunded to deposit account no. 15-0030.

This application will be returned to OIPE for further processing with a filing date of December 12, 2005, using the copy of page 71 of the specification, supplied on March 20, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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** | : Ga-Lane Chen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639325 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,006 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **675** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORRISON & FOERSTER LLP
425 MARKET STREET
SUITE 100
SAN DIEGO, CA 92105

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SEP 12 2007

**OFFICE OF PETITIONS**

In re Application of
Roger Allen ADDY
Application No. 11/299,018
Filed: December 9, 2005
Attorney Docket No. 146712015600

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the patent application on July 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: STEPHEN C. DURANT
NOVAK DRUCE & QUIGG, LLP
SPEAR STREET TOWER – 35TH FLOOR
ONE MARKET PLAZA
SAN FRANCISCO, CA 94105

10 APR 2006

#4

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WILLIAM W. TRUXES III
947 NORTHSTAR DRIVE
P.O. BOX 4077
PARK CITY, UTAH 84060-4077

| | | |
|---|---|---|
| In re Application of | : | |
| TRUXES, III, William W. | : | |
| Application No.: 11/299,019 | : | DECISION |
| Attorney Docket No.: None | : | |
| For: A NOVEL JACK FORM LED LAMP | : | |
| PACKAGE AND CADDY | : | |

This decision is in response to applicants' "PETITION REQUESTING THE DOCUMENTS FILED 18 NOVEMBER 2005 BE TREATED AS A 111 FILING TO PRESERVE MY PRIORITY DATE OF 22 NOVEMBER 2004" filed on 15 December 2005 in the United States Patent and Trademark Office (USPTO). The petition has properly been treated as a petition under 37 CFR 1.182.

## BACKGROUND

On 29 October 1999, applicant filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a specification, drawings, abstract, and claims.

On 15 December 2005, applicant filed the instant "PETITION REQUESTING THE DOCUMENTS FILED 18 NOVEMBER 2005 BE TREATED AS A 111 FILING TO PRESERVE MY PRIORITY DATE OF 22 NOVEMBER 2004", which has properly been treated as a petition under 37 CFR 1.182. The petition was accompanied by, *inter alia*, $480 in fees.

## DISCUSSION

The petition requests that the application be converted from an application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a). Such a petition is treated under 37 CFR 1.182. The petition fee is $400. Applicant has submitted a total of $630 in fees thus far. These fees have been accounted for in the following manner:

| | |
|---|---|
| $150 | filing fee, small entity, for 35 U.S.C. 111(a) application; |
| $400 | petition fee for petition under 37 CFR 1.182; and |
| $80 | towards search fee, small entity, of $250. |

Accordingly, the petition fee has been paid.

Because there was no prior international application designating the United States, applicant is not entitled to rely on the papers filed 18 November 2005 to enter the national stage in the United States. The transmittal letter of 18 November 2005 was clearly an application for a United States patent. Applicant erred in identifying the application as a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicant cannot proceed under 35 U.S.C. 371 and applicant has filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicant's petition to accept the papers filed on 18 November 2005 as an application filed under 35 U.S.C. 111(a).

## CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application will be forwarded to the Office of Initial Patent Examining for processing as an application under 35 U.S.C. 111(a) having a filing date of **18 November 2005**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

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JUN 16 2009

**OFFICE OF PETITIONS**

In re Application of
Aspy K. Mehta et al
Application No. 11/299,022
Filed: December 9, 2005
Attorney Docket No. 2005B158

ON PETITION

This is a decision on the petition, filed June 15, 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 14, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Abraham Hershkovitz
Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

---

[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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5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

| | | |
|---|---|---|
| **Applicant** | : Aspy K. Mehta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7619038 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/299,022 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **889** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
3404 E HARMONY RD

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MAR 16 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Forman, et al. | : | |
| Application No. 11/299,024 | : | DECISION GRANTING PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 200501162-1 | : | |

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182: FILING OF CORRECT FIGURES", filed February 1, 2006.

Petitioner requests that the drawings filed in the instant application on December 9, 2005 be transferred to the file of application Serial No. 11/299,086, and that the drawings filed in application Serial No. 11/299,086 on December 9, 2005, be transferred to the instant application. Petitioner further requests that the instant application be accorded a filing date of December 9, 2005, the date the drawings were mistakenly submitted in application Serial No. 11/299,086.

It is obvious that the application was not complete on the date of deposit, i.e., on December 9, 2005, since the drawings described in the specification were not received with the application. However, since the drawings were in fact present in the PTO on December 9, 2005, the application may be accorded filing date of December 9, 2005.

The four (4) sheets of drawings filed December 9, 2005 in the instant application will remain in the file, but will not be entered. Instead, the application will be reprocessed with the copy of Figures 1-4 (4 sheets of drawings) filed on February 1, 2006, in the instant application.

The petition is **GRANTED** to the extent indicated above.

The instant application is being returned to Group Art Unit 2612 for docketing and examination in due course with its current filing date of December 9, 2005, and using the four (4) sheets of drawings containing Figures 1-4 filed on February 1, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

DAC
SFW

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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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OIPE IAP64
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INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
3404 E HARMONY RD

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| | |
|---|---|
| In re Application of<br>Forman, et al.<br>Application No. 11/299,024<br>Filed: December 9, 2005<br>Attorney Docket No. 200501162-1 | DECISION GRANTING PETITION |

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182: FILING OF CORRECT FIGURES", filed February 1, 2006.

Petitioner requests that the drawings filed in the instant application on December 9, 2005 be transferred to the file of application Serial No. 11/299,086, and that the drawings filed in application Serial No. 11/299,086 on December 9, 2005, be transferred to the instant application. Petitioner further requests that the instant application be accorded a filing date of December 9, 2005, the date the drawings were mistakenly submitted in application Serial No. 11/299,086.

It is obvious that the application was not complete on the date of deposit, i.e., on December 9, 2005, since the drawings described in the specification were not received with the application. However, since the drawings were in fact present in the PTO on December 9, 2005, the application may be accorded filing date of December 9, 2005.

The four (4) sheets of drawings filed December 9, 2005 in the instant application will remain in the file, but will not be entered. Instead, the application will be reprocessed with the copy of Figures 1-4 (4 sheets of drawings) filed on February 1, 2006, in the instant application.

The petition is **GRANTED** to the extent indicated above.

The instant application is being returned to Group Art Unit 2612 for docketing and examination in due course with its current filing date of December 9, 2005, and using the four (4) sheets of drawings containing Figures 1-4 filed on February 1, 2006.

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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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

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APR 21 2006
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In re Application of :
Park et al. :
Application No. 11/299,030 : DECISION ON PETITION
Filed: December 9, 2005 :
Attorney Docket No. 1279-434/10415628 :

This is in response to the petition filed on March 16, 2006, which is being treated as a petition under 37 CFR 1.183, requesting waiver of the requirement under 37 CFR 1.64(b) to submit an oath or declaration signed by a legal representative of a deceased inventor.

Applicants state that Chan Seung Park and Colin E. Hackett invented the present application. In response to the Notice to File Missing Parts, applicants submit a declaration signed only by joint inventor Park because joint inventor Hackett is deceased. Applicants explain that an administrator for Hackett's estate has yet to be appointed, and thus, there is no person with legal authority to sign the declaration on behalf of Hackett. Applicants request that the USPTO accept the declaration and temporarily waive the requirement for a declaration signed by all inventors until at least March 13, 2007, one year from the date of this petition. Applicants state that a declaration signed by Hackett's legal representative will be forthcoming in this application once an administrator is appointed.

The Office notes that applicants must identify a legal representative of the deceased inventor in the declaration. Applicants have a suitable remedy on hand for their predicament that does not require the extraordinary remedy of invoking 37 CFR 1.183. Applicants are reminded that the Office will not normally consider an extraordinary remedy when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pat. 1982).

The Office notes that an application may be made by the heirs of the inventor if there is no will or the will did not appoint an executor and the estate was under the sum required by state law for the appointment of an administrator. The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64. See MPEP 409.01(a).. Additionally, "[o]ne who has reason to believe that he or she will be appointed legal representative of a deceased inventor may apply for a patent as legal representative in accordance with 37CFR 1.42." Id. Pursuant to MPEP 409.01(b), the Office no longer requires proof of authority of the legal representative of a deceased inventor; however, any person acting as a legal representative should ensure that he or she is properly acting in such a capacity.

Moreover, as set forth in Section 409.03(c) of the Manual of Patent Examining Procedure, an applicant is permitted to file a petition under 37 CFR 1.47(a) and 35 U.S.C. 116 second paragraph when a legal representative of a deceased joint inventor is unavailable to make the application (*i.e.*, sign the oath or declaration required by 37 CFR 1.63 and 1.64 or 1.175). These provisions requires all available joint inventors to file an application "on behalf of" themselves and on behalf of a legal representative of a deceased joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application."

In addition, the following requirements must be meet:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning legal representative of the deceased joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning legal representative left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning legal representative unless otherwise indicated.
>
> (B) The application must be accompanied by proof that the nonsigning legal representative (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(c).
>
> (C) The last known address of the nonsigning legal representative must be stated. See MPEP § 409.03(e).

In view of above, the Office will not waive the requirement under 37 CFR 1.64(b) to submit an oath or declaration signed by a legal representative of a deceased inventor. Accordingly, the petition under 37 CFR 1.183 is **dismissed**.

To correct the deficiency, applicants must file within **TWO MONTHS** of the mailing date of this decision either (1) a new declaration signed by both the joint inventor and the legal representative or (2) a petition under 37 CFR 1.47(a) accompanied by a new declaration signed by the joint inventor on behalf of the nonsigning legal representative of the deceased inventor. Any extensions of time will be governed by 37 CFR 1.136(a). The appropriate declaration forms accompany this decision to assist applicants.

The USPTO finance records indicate that the Office mistakenly charged applicants' Deposit Account twice for the $400.00 petition fee. The Office apologizes for the error and will refund the duplicate fee of $400.00 to the Deposit Account.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: PTO/SB/01, PTO/SB/02A, and PTO/SB/2LR

PTO/SB/01 (10-05)
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# DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☐ Declaration Submitted With Initial Filing *OR* ☐ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

| | |
|---|---|
| Attorney Docket Number | |
| First Named Inventor | |
| *COMPLETE IF KNOWN* | |
| Application Number | |
| Filing Date | |
| Art Unit | |
| Examiner Name | |

**I hereby declare that:**

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

*(Title of the Invention)*

the specification of which

☐ is attached hereto

***OR***

☐ was filed on (MM/DD/YYYY) ☐ as United States Application Number or PCT International Application Number ☐ and was amended on (MM/DD/YYYY) ☐ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? YES | NO |
|---|---|---|---|---|---|
| | | | ☐ | ☐ | ☐ |
| | | | ☐ | ☐ | ☐ |
| | | | ☐ | ☐ | ☐ |
| | | | ☐ | ☐ | ☐ |

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.



This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. 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 21 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 completing the form, call 1-800-PTO-9199 and select option 2.*

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# DECLARATION — Utility or Design Patent Application

| | | | | |
|---|---|---|---|---|
| Direct all correspondence to: | ☐ The address associated with Customer Number: | | OR ☐ | Correspondence address below |

| | | |
|---|---|---|
| Name | | |
| Address | | |
| City | State | ZIP |
| Country | Telephone | Email |

## 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.

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 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| | | | |
|---|---|---|---|
| **NAME OF SOLE OR FIRST INVENTOR:** | | ☐ A petition has been filed for this unsigned inventor | |
| Given Name (first and middle [if any]) | | Family Name or Surname | |
| Inventor's Signature | | | Date |
| Residence: City | State | Country | Citizenship |
| Mailing Address | | | |
| City | State | Zip | Country |

☐ Additional inventors or a legal representative are being named on the _____ supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.

# 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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# DECLARATION

## ADDITIONAL INVENTOR(S)
**Supplemental Sheet**
Page _____ of _____

**Name of Additional Joint Inventor, if any:** ☐ A petition has been filed for this unsigned inventor

| Given Name (first and middle (if any)) | Family Name or Surname |
|---|---|
| | |

| Inventor's Signature | Date |
|---|---|

| Residence: City | State | Country | Citizenship |
|---|---|---|---|

Mailing Address

| City | State | Zip | Country |
|---|---|---|---|

**Name of Additional Joint Inventor, if any:** ☐ A petition has been filed for this unsigned inventor

| Given Name (first and middle (if any)) | Family Name or Surname |
|---|---|
| | |

| Inventor's Signature | Date |
|---|---|

| Residence: City | State | Country | Citizenship |
|---|---|---|---|

Mailing Address

| City | State | Zip | Country |
|---|---|---|---|

**Name of Additional Joint Inventor, if any:** ☐ A petition has been filed for this unsigned inventor

| Given Name (first and middle (if any)) | Family Name or Surname |
|---|---|
| | |

| Inventor's Signature | Date |
|---|---|

| Residence: City | State | Country | Citizenship |
|---|---|---|---|

Mailing Address

| City | State | Zip | Country |
|---|---|---|---|

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. 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 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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# DECLARATION – Supplemental Priority Data Sheet

Foreign applications:

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? YES | NO |
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# DECLARATION Supplemental Sheet
## For Legal Representatives (35 U.S.C. 117) On Behalf of A Deceased or Incapacitated Inventor

**Enter Deceased or Incapacitated Inventor's Name** _____ **Page**_____ **of** _____

| **Name of Legal Representative:** | ☐ A petition has been filed for this non-signing legal representative | | |
|---|---|---|---|
| Given Name (first and middle (if any)) | Family Name or Surname | | |
| | | | |
| Legal Representative's Signature | | Date | |
| Residence: City | State | Country | Citizenship |
| Mailing Address | | | |
| Mailing Address | | | |
| City | State | Zip | Country |

| **Name of Additional Legal Representative, if any:** | ☐ A petition has been filed for this non-signing legal representative | | |
|---|---|---|---|
| Given Name (first and middle (if any)) | Family Name or Surname | | |
| | | | |
| Legal Representative's Signature | | | |
| Residence: City | State | Country | Citizenship |
| Mailing Address | | | |
| Mailing Address | | | |
| City | State | Zip | Country |

| **Name of Additional Legal Representative, if any:** | ☐ A petition has been filed for this non-signing legal representative | | |
|---|---|---|---|
| Given Name (first and middle (if any)) | Family Name or Surname | | |
| | | | |
| Legal Representative's Signature | Date | | |
| Residence: City | State | Country | Citizenship |
| Mailing Address | | | |
| Mailing Address | | | |
| City | State | Zip | Country |

This collection of information is required by 35 U.S.C. 117 and 37 CFR 1.42, 1.43, 1.63 and 1.64(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 1.14. This collection is estimated to take 21 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 (1-800-786-9199) 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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Robert Berliner
Berliner & Associates
555 W. Fifth Street, 31st Floor
Los Angeles, CA 90013

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OCT 24 2006
OFFICE OF PETITIONS

In re Application of :
Park et al. :
Application No. 11/299,030 : DECISION ON PETITION
Filed: December 9, 2005 :
Attorney Docket No. 1279-434 :

This is in response to the petition under 37 CFR 1.47(a) filed on June 29, 2006.

Applicants stated that Chan Seung Park and Colin E. Hackett (now deceased) invented the present application. With the present petition, applicants submitted a declaration signed by joint inventor Park and Hackett's legal representative on his behalf.

In view of the joinder of the inventor and the legal representative, further consideration under 37 CFR 1.47(a) is not necessary. Accordingly, the petition is dismissed as involving a moot issue.

This application does not have any Rule 1.47(a) status and no such status should appear in the record. This application does not need to be returned to the Office of Petitions for further consideration under 37 CFR 1.47(a).

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BERLINER $ ASSOCIATES
555 WEST FIFTH STREET
31ST FLOOR
LOS ANGELES CA. 900013

JUN -2 2010

| | | |
|---|---|---|
| In re Application of | : | |
| PARK CHAN SEUNG. | : | |
| Application No.: 11/299,030 | : | DECISION ON |
| Filing or 371(c) Date: December 09, 2005 | : | PETITION |
| Attorney Docket Number: 1279-434US | : | |

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR 1.81 (a), received in the United States Patent and Trademark Office (USPTO) January 15, 2010.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit the Issue Fee and Publication Fee as required by the Notice of Allowance, mailed September 21, 2009 which set forth a three (3) month statutory period of reply. The Notice of Allowance was mailed on January 08, 2010.

Petitioner states that the issue fee and publication fee were timely submitted. As evidence, petitioner submitted a copy of the previously filed correspondence which included a completed Certificate of Mailing; a copy of the "Express Mail" mailing label; the express Mail tracking number and a tracking receipt showing the date and time the article was received in the US Patent and Trademark Office.

In view of the above, the holding of abandonment is hereby withdrawn and the application has been restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1567.

Diane Terry

Diane Terry
Quality Control Specialist
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Paul Dutta-Choudhury | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636465 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,046 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1033** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PATENT
ATTY. DOCKET NO.: 31173691-000006

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---|---|---|---|
| Applicant: | David Wakefield et al. | § | |
| | | § | |
| Serial No.: | 11/299,061 | § | Art Unit: 1764 |
| | | § | |
| | | § | |
| Filed: | December 9, 2005 | § | |
| | | § | |
| Title: | Clean Fuel Gas Made by the Gasification of Coal Cycle Power Plants | § § § | Examiner: Ridley, Basia Anna |

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

CERTIFICATE OF MAILING 37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail on the Date of Deposit indicated below, and in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on 9/25/06

Signature: _____
(Kathleen Byrd)

## PETITION FOR EXPEDITED HANDLING OF UTILITY PATENT APPLICATION BASED UPON AGE OF INVENTOR

Applicants respectfully request that the above-referenced application be made special and advanced out of turn for examination pursuant to 37 C.F.R. 1.102(c)(1). Specifically, one of the named inventors of this application, Robert J. Jackson, is currently eighty-two (82) years old and will soon be eighty-three (83) years of age. As evidenced by the attached declaration, Mr. Jackson was born on October 1, 1923.

**PETITION GRANTED**

William Krynski
Special Program Examiner
Technology Center 1700

~~OCT 1 5 2006~~
10-18-6

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

**MARSH, FISCHMANN & BREYFOGLE LLP**
**3151 SOUTH VAUGHN WAY**
**SUITE 411**
**AURORA CO 80014**

**COPY MAILED**

DEC 14 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Dennis Lura | : | |
| Application No. 11/299,064 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 50399-00002 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 27, 2006. A Notice of Abandonment was mailed on June 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of July 26, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3671 for appropriate action in the normal course of business on the reply received June 21, 2007.

Frances Hicks
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

MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Elad Alon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7650526 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,073 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **438** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
3404 E HARMONY RD

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Fine, et al. | : | |
| Application No. 11/299,086 | : | DECISION GRANTING PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 200501001-1 | : | |

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182: FILING OF CORRECT FIGURES", filed February 1, 2006.

Petitioner requests that the drawings filed in the instant application on December 9, 2005 be transferred to the file of application Serial No. 11/299,024, and that the drawings filed in application Serial No. 11/299,024 on December 9, 2005, be transferred to the instant application. Petitioner further requests that the instant application be accorded a filing date of December 9, 2005, the date the drawings were mistakenly submitted in application Serial No. 11/299,024.

It is obvious that the application was not complete on the date of deposit, i.e., on December 9, 2005, since the drawings described in the specification were not received with the application. However, since the drawings were in fact present in the PTO on December 9, 2005, the application may be accorded filing date of December 9, 2005.

The four (4) sheets of drawings filed December 9, 2005 in the instant application will remain in the file, but will not be entered. Instead, the application will be reprocessed with the copy of Figures 1-4 (4 sheets of drawings) filed on February 1, 2006, in the instant application.

The petition is **GRANTED** to the extent indicated above.

The instant application is being returned to the Office of Initial Patent Examination for further processing, maintaining its current filing date of December 9, 2005, and using the four (4) sheets of drawings containing Figures 1-4 filed on February 1, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/299,094 | 12/08/2005 | 2875 | 500 | BRL1P001X1 | 16 | 20 | 3 |

**CONFIRMATION NO. 4339**

**CORRECTED FILING RECEIPT**

*OC000000018048493*

022434
BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 02/14/2006

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)**

Paul R. Mighetto, Berkeley, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number **022434**.

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/009,576 12/10/2004

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/23/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/299,094**

**Projected Publication Date:** 06/15/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Apparatus for providing light

**Preliminary Class**

362

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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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 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. |
|---|---|---|---|---|
| 11/299,096 | 12/09/2005 | Louis B. Rosenberg | 3502.012 | 4330 |

| EXAMINER |
|---|
| DAGNEW, SABA |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3688 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/24/2008 | PAPER |

7590 10/24/2008
SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO, CA 93406

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell
Patent Publication Branch
Office of Data Management

Adjustment date: 10/27/2008 BPOWELL
12/14/2005 SHASSEN1 00000066 501616 11299096
02 FC:2111 250.00 CR
04 FC:2202 300.00 CR
05 FC:2201 100.00 CR

Repln. Ref: 10/27/2008 BPOWELL 0018362100
DA#:182220 Name/Number:11348244
FC: 9204 $500.00 CR



FORM PET651G (Rev. 08/07)

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17 JAN 2006

LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH, PA 15275-1112

| | | |
|---|---|---|
| In re Application of KLIPPER et al | : | |
| U.S. Application No.: 11/299,098 | : | |
| PCT Application No.: PCT/EP04/05877 | : | DECISION |
| Int. Filing Date: 01 June 2004 | : | |
| Priority Date Claimed: 13 June 2003 | : | |
| Attorney Docket No.: CH-8413/LeA 36,760 | : | |
| For: ARSENIC-ADSORBING ION EXCHANGER | : | |

This is in response to applicant's "Petition to Covert Application to an Application Under 35 U.S.C. §371" filed 22 December 2005, which is being treated under 37 CFR 1.182.

## BACKGROUND

On 01 June 2004, applicant filed international application PCT/EP04/05877, which claimed priority of an earlier Germany application filed 13 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 13 December 2005.

On 08 December 2005, applicant submitted application papers with the USPTO including, *inter alia*, a Utility Patent Application Transmittal (Form PTO/SB/05).

On 22 December 2005, applicant filed the present petition under 37 CFR 1.182.

## DISCUSSION

The petition states that applicant inadvertently filed the present application under 35 U.S.C. 111(a) instead of a national stage application under 35 U.S.C. 371. The petition requests that the present application be converted to a national stage application under 35 U.S.C. 371.

U.S. statutes and regulations do not make specific provision for the requested conversion and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, applicant has failed to make such a showing. Applicant is advised that because international application PCT/EP04/05877 designated the United States, the present application may be treated as a continuation of international application PCT/EP04/05877, with no loss of priority rights, if the requirements of 35 U.S.C. 120 are met. See MPEP 1895.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| *In re* Application of: | § | BEFORE THE EXAMINER |
| Datta *et al.* | § | Not Yet Assigned |
| Serial No.: Not Yet Assigned 11/299100 | § | Group Art Unit No.: Not Yet Assigned 1713 |
| Filed: December 9, 2005 | § | Attorney Docket No.: 1997B050/13 |
| For: Propylene Alpha-Olefin | § | Confirmation No.: Not Yet Assigned |
| Polymer Blends | § | |
| | § | |
| Customer No.: 23455 | § | December 9, 2005 |

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

## PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

December 9, 2005
Date

Michael A. Cromwell
Attorney for Applicants
Registration No. 42,44

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2866
Fax: 281-834-2495

**PETITION GRANTED**

**William Krynski,**
**Special Program Examiner**
**Technology Center 1700**
JAN 30 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUL 18 2008

STETINA BRUNDA
GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

In re Application of :
Fabian, et al. :
Application No. 11/299,106 : DECISION
Filed: 12 December, 2005 :
Attorney Docket No. FBIAN-001B1

This is a decision on the petition filed on 11 February, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

## BACKGROUND

The record reflects that:

Petitioner failed to reply to Notice of Allowance/Allowability and Fees Due mailed on 1 October, 2007, 2007, with reply due under a non-extendable deadline on or before 2 January, 2008.

The application went abandoned by operation of law after midnight 2 January, 2008.

The Office mailed the Notice of Abandonment on 28 January, 2008.

On 11 February, 2008, Petitioner filed a petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of fees due, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. 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 those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

## STATUTES, REGULATIONS

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).

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.[2],[3]

## CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Brnach in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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

[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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COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON, IN 47402

**MAILED**

MAR 2 9 2010

**OFFICE OF PETITIONS**

In re Application of :
David Ernest Hartley et al :
Application No. 11/299,107 :
Filed: December 9, 2005 :
Attorney Docket No. PA-5645-RFB :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 2, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Two month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3731 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed November 2, 2009 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 05/14/2010

| | | |
|---|---|---|
| **Applicant** | : Yong Bok Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7615291 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/299,119 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/08/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **800** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**BAKER & DANIELS LLP**
**111 E. WAYNE STREET**
**SUITE 800**
**FORT WAYNE IN 46802**

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OCT 0 2 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Huber, Virgil D. 11/299,128 :
Application No. ~~11/299,218~~ :
Filed: December 9, 2005 :
Attorney Docket No. HUB0001 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a Statement from the applicant, Virgil D. Huber. 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 3714 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Yun Luo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7574018 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/299,129 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **912** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

**SCAN!** **Please forward case and paper to address shown below.**

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: _____

DATE : 6/10/08

TO SPE OF : ART UNIT 1625 Binta Robinson

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/299135 Patent No.: 7329679

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

**HENRY RANDALL**
**Certificates of Correction Branch**
**703-308-9390 ext. _____**

**Thank You For Your Assistance**

---

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

/Janet L. Andres/ — SPE

1625 — Art Unit

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**MOTOROLA, INC**
**INTELLECTUAL PROPERTY SECTION**
**LAW DEPT**
**8000 WEST SUNRISE BLVD**
**FT LAUDERDAL FL 33322**

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JUN 25 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Dertz et al. | : | |
| Application No. 11/299,136 | : | ON PETITION |
| Filed: December 8, 2005 | : | |
| Attorney Docket No. CM04761HD01 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (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 Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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**CHRISTOPHER H. HUNTER**
**PARKER-HANFIN CORPORATION**
**6035 PARKLAND BOULEVARD**
**CLEVELAND OH 44124-4141**

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JAN 25 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Knight, Steven R. | : | |
| Application No. 11/299,137 | : | DECISION ON PETITION |
| Filed: December 7, 2005 | : | |
| Attorney Docket No. 2802-135-099 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 1724 for processing of the Request for Continued Examination under 37 CFR 1.114 filed previously on July 27, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Varvara Grichko | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7582458 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,163 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Arturo Crespo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640193 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,168 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **197** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 04/21/10

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11299169 Patent No.: 7592912

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D40-D**
**Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*Lamonte Newsome*
**Certificates of Correction Branch**
**703-756-1574**

**Thank You For Your Assistance**

---

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

**Comments:** OK to enter.

DANIEL WU
SUPERVISORY PATENT EXAMINER
SPE

2612
Art Unit

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United States Patent and Trademark Office
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**SNELL & WILMER L.L.P. (Main)**
**400 EAST VAN BUREN**
**ONE ARIZONA CENTER**
**PHOENIX AZ 85004-2202**

MAILED

MAR 05 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| S. George Kottayil, et al. | : | |
| Application No. 11/299,183 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. 50695.0200 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 18, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 19, 2009. The Notice of Abandonment was mailed October 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

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| | |
|---|---|
| In re Application of | : |
| N. Raja Dharmarajan et al. | : |
| Application No. 11/299,205 | : DECISION DISMISSING |
| Filed: December 9, 2005 | : PETITION |
| Attorney Docket No. 99B007B/3 | : |

This is a decision on the petition filed May 1, 2006, requesting that the above-identified application maintain a filing date of December 9, 2005, with Figures 1, 2 and 3 described in the specification as a part of the original disclosure.

The application was filed December 9, 2005. On March 6, 2006, 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 December 9, 2005, but that, Figures 1, 2 and 3 as described in the specification appeared to have been omitted from the application.

In response, while petitioner admits that the drawing figures were inadvertently omitted, petitioner argues that a complete application was present on December 9, 2005, for filing date purposes in that the entire disclosure of the parent application was incorporated by reference into the instant divisional application. And, since the divisional specification is a true copy of the parent application, the specification should be deemed to have been filed with this application. This argument is persuasive. In a divisional application filed under 1.53(b), 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 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. See MPEP 201.06(c). A review of the application-as-filed reveals that the instant divisional application transmittal contained such a statement.

Obviously, in view of the incorporation by reference in the prior application, Figures 1, 2 and 3 as described in the specification is not new matter if it was a part of the disclosure of the prior application.

Accordingly, the petition is **DISMISSED**.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of December 9, 2005, using the application papers received in the Office on that date and with an indication in Office records that Figures 1, 2 and 3, 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**DECHERT LLP**
**P.O. BOX 10004**
**PALO ALTO, CA 94303**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **SINGH,** Rajinder et al. | : | |
| Application No. 11/299,207 | : | DECISION ON PETITION |
| Filed: December 08, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **375462-011C1D1** | : | FROM RECORD |
| | : | |

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, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Dechert LLP has been revoked by the assignee of the patent application on April 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **RIGEL PHARMACEUTICALS INC.**
**C/O FOLEY & LARDNER LLP**
**1530 PAGE MILL ROAD**
**PALO ALTO CA 94304**

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OCT 08 2008

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SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Tateo KAWAMURA.
Application No. 11/299,216
Filed: December 9, 2005
For: APPARATUS, METHOD AND PROGRAM PRODUCT FOR INTEGRATING APPLICATIONS

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 ~~August 1,~~ July 30, 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 are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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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OCT 09 2008

Technology Center 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: KATOH et al.
Application No. 11/299,221
Filed: December 9, 2005
For: DISPLAY DEVICE, CONTROL METHOD AND PROGRAM PRODUCT

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 August 1, 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 are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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.

/Mano Padmanabhan/

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Arya Behzad | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590432 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,230 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **951** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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KENT SIEFFERT
SHUMAKER & SIEFFERT, PA
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hiroyuki Nakayama | : | |
| Application No. 11/299,271 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. NS-US065326 | : | FROM RECORD |
| | : | |

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 30, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Shumaker & Sieffert, PA has been revoked by the assignee of the patent application on November 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GLOBAL IP COUNSELORS, LLP
1233 TWENTITH STREET
SUITE 700
WASHINGTON, DC 20036

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

COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET
SUITE 1800
SAN ANTONIO TX 78205-1521

COPY MAILED

JUL 07 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Shiyou Li, et al. | : | |
| Application No. 11/299,280 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 30884.2 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 18, 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, "this application is being transferred to Assignee's care per assignee's request, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MS. YVETTE CLARK
GENERAL COUNSEL
STEPHEN F. AUSTIN STATE UNIVERSITY
PO BOX 13065
NACOGDOCHES, TX 75962

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA CA 92037

JAN 28 2010

| | | |
|---|---|---|
| In re Application of | : | **DECISION ON PETITION** |
| HARPER, JEFFREY F. et al. | : | |
| Application No. 11/299,286 | : | |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. TSRI 783.3 C1 | : | |

This is a decision on the Petition To Withdraw Holding Of Abandonment received in the United States Patent and Trademark Office (USPTO) on March 16, 2009.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed October 28, 2008, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on February 20, 2009.

Petitioner states that the Applicants responded by timely paying the Issue Fee on January 20, 2009. In support of this assertion the petitioner has submitted documents, which include the following:

- Copy of Form PTOL-85B (FEE(S) TRANSMITTAL) signed by Bethany Crandell
- A copy of the docket record where the non-received Office communication would have been received and docketed. A statement stating the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates the Office communication was not received. (MPEP 711.03(c))
- 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 items listed thereon on the date stamped thereon by the USPTO

The petitioner has demonstrated that the Fee Transmittal was timely mailed on January 20, 2009 and is in compliance with 37 CFR 1.10 in that

(1) the Patent and Trademark Office was promptly informed of the previous timely mailing,

(2) included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOSZ AND PARTNERS, LLP
450 BEDFORD STREET
LEXINGTON, MA 02420

**COPY MAILED**

JUN 21 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Edward Erdman, et. al. | : | |
| Application No. 11/299,290 | : | DECISION ON PETITION |
| Filed: December 8, 2005 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. H-KN-00101 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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.

Also, 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 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

As authorized, the petition fee of $1,370 has been charged to petitioner's deposit account.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 3761, for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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 | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/299,290 | 12/08/2005 | 3761 | 1230 | H-KN-00101 | 22 | 3 |

**CONFIRMATION NO. 5679**

**CORRECTED FILING RECEIPT**

*OC000000024370479*

56679
GOSZ AND PARTNERS, LLP
450 BEDFORD STREET
LEXINGTON, MA 02420

Date Mailed: 06/14/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Edward Erdman, West Chester, PA;
Dane Jackson, Gilbertsville, PA;
Elizabeth Miller, King of Prussia, PA;

**Assignment For Published Patent Application**

TYCO HEALTHCARE RETAIL GROUP, AG

**Power of Attorney:** The patent practitioners associated with Customer Number **56679**.

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/634,968 12/08/2004

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/20/2006

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/299,290**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Absorbent article with multi-zone acquisition

**Preliminary Class**

604

## 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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**OFFICE OF PETITIONS**

**QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.**
**P O BOX 458**
**ALAMEDA CA 94501**

In re Application of

**COX,** David R. et al.
Application No. 11/299,298
Filed: December 08, 2005
Attorney Docket No. **77-000330US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 03, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jonathan Quine on behalf of all attorneys of record who are associated with customer No. 22798. All attorneys/agents associated with the Customer Number 22798 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 17, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DAVID R. COX**
**2743 HALMARK DRIVE**
**BELMONT, CA 94002**

cc: **GOODWIN PROCTER, LLP**
**135 COMMONWEALTH DRIVE**
**MENLO PARK, CA 94025**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : James I-Che Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7600512 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,307 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/09/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **899** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

**MEDICAL DIAGNOSTIC LABORATORIES LLC**
**2439 KUSER ROAD**
**HAMILTON, NJ 08690-3303**

| | | |
|---|---|---|
| In re Application of | : | |
| Jason TRAMA, et al | : | |
| Application No. 11/299,362 | : | DECISION ON PETITION |
| Filed: December 9, 2005 | : | |
| Attorney Docket No. P4-NON-1 | : | |

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, May 29, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1637 for appropriate action by the Examiner in the normal course of business on the reply received March 14, 2008.

April Wise
Petitions Examiner
Office of Petitions

cc: KATHRYN L. HESTER, PH.D.
P.O. BOX 16370
OKLAHOMA CITY, OK 73113

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**MAZ STUL OPPENHEIMER**
**P.O. BOX 50**
**STEVENSON, MD 21153**

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JAN 3 1 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| McElvaney, David | : | |
| Application No. 11/299,439 | : | ON PETITION |
| Filed: December 13, 2005 | : | |
| Attorney Docket No. RV0501 | : | |

This is a decision on the petition under 37 CFR §1.102(d), filed December 13, 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 Paralegal 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 2645 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Soke Meng Chan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7642304 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,469 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **469** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**BROWN & MICHAELS, PC**
**118 NORTH TIOGA STREET**
**ITHACA, NY 14850**

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APR 16 2008

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|---|---|---|
| In re Application of | : | |
| **LI**, Che-Yu | : | |
| Application No. 11/299,518 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | |
| Attorney Docket No. **H1823-00024** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 14, 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 1.136(a) were obtained. Accordingly, the application became abandoned on December 15, 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 election, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center Art Unit 2833 for consideration of the Election filed July 3, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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| | | |
|---|---|---|
| In re Application of | : | |
| Stephen Lapierre et al. | : | |
| Application No. 11/299,519 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 2009.0233US01 (BS05-0193 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 22, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the attorney cannot withdraw attorneys' individually when the power of attorney was originally granted by Customer Number in the Power of Attorney filed December 12, 2005.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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**SINGAPORE 199591 SG SINGAPORE**

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| | | |
|---|---|---|
| In re Patent No. 7,309,637 | : | |
| Application No. 11/299,542 | : | |
| Filed: December 12, 2005 | : | ON PETITION |
| Issued: December 18, 2007 | : | |
| Title: METHOD TO ENHANCE DEVICE PERFORMANCE WITH SELECTIVE STRESS RELIEF | : | |

This is a decision on the petition filed February 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The requisite $130.00 processing fee will be charged to petitioner's deposit account as authorized.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 06/04/2010

| | | |
|---|---|---|
| **Applicant** | : Joseph A. Fader | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624973 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/299,569 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **617** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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| | | |
|---|---|---|
| In re Application of | : | |
| Talpade, et al. | : | |
| Application No. 11/299,570 | : | ON APPLICATION FOR |
| Filed: December 12, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 088245-7213 | : | |

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed January 6, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand, one hundred and sixty-three (1,163) days, not seven hundred and nine (709) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office 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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Chicago IL 60604

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|---|---|---|
| In re Application of | : | |
| Robert Holmberg | : | |
| Application No. 11/299,574 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 14286 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/10/09

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/899585 Patent No.: 7,430,382 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D62-B**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
**703-756-1591**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☒ **Denied** — State the reasons for denial below.

**Comments:** Since the application is now a patent, it is beyond the petition to correct inventorship under 37 CFR 1.48(a) is inappropriate. Please see 37 CFR 1.324 for instructions on how to correct inventorship in a patent AB 7/27/10

_____ SPE _____ Art Unit

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**5460 WHITE OAK AVE**
**SUITE A-331**
**ENCINO, CA 91316**

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**OFFICE OF PETITIONS**

In re Application of

**ROSENBERG**
Application No. 11/299,616
Filed: December 12, 2005
Attorney Docket No. 05PLI-1281

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 September 28, 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 evidence submitted with the instant petition is a copy of Mr. Rosenberg's California Driver License, Medicare Health Insurance card and a declaration signed by Mr. Rosenberg indicating 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 Patricia Volpe at 571-272-6825.

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.

P Volpe for

David Bucci
Petitions Examiner
Office of Petitions

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1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Young-Min Chae | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7598476 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,631 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **966** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 :
Nakanishi :
Application No. 11/299,652 : DECISION ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. 1019952-000207 :

This is a decision on the petition, filed June 5, 2007 which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before April 26, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 26, 2007.

Petitioner asserts that the Notice dated January 26, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3651 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of January 26, 2007. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

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

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVE, NW
WASHINGTON, DC 20036
UNITED STATES

JUN 17 2008

*In re* Application of
Yamada et al.
Application No.: 11/299,656
Filed: December 13, 2005
Attorney Docket No. 28951.5453

**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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed March 28, 2008 are hereby vacated.

The application is being withdrawn from issue because at least one claim is not patentable over prior art. The issued fee is refundable upon request, or applicants may request that the fee be credited to a deposit account. However, the applicants 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 Fee(s) Due, the applicants 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 Fee(s) Due. If the application is abandoned, the applicants may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Ha Nguyen, Supervisory Patent Examiner, at (571) 272-1678.

The application is being returned to the examiner for taking appropriate action.

Richard Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON, DC 20007-5201

COPY MAILED

JUL 07 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Bobby W. Sandage, Jr. | : | |
| Application No. 11/299,661 | : | DECISION ON PETITION |
| Filed: December 13, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 215128.05301 | : | 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 December 17, 2007.

The request is **APPROVED**.

A review of the file record indicates that Katten, Muchin Rosenmann, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Katten Muchin Rosenmann, LLP has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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) the intervening assignee of the entire interest. 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.

Applicant is reminded that there is no attorney of record at this time.

The application became abandoned for failure to timely respond to the Office action mailed September 7, 2007.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. BOBBY W. SANDAGE, JR.
3 STONEYMEADE WAY
ACTON, MA 07120

cc: MR. CHARLES E. LYON
CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/299,661 | 12/13/2005 | Bobby W. Sandage JR. | 215128.05301 |

**CONFIRMATION NO. 4393**

**POWER OF ATTORNEY NOTICE**

*OC000000030637021*

27160
PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON, DC 20007-5201

Date Mailed: 06/24/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/17/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**FOLEY AND LARDNER LLP**
**SUITE 500**
**300 K STREET, NW**
**WASHINGTON, DC 20007**

**COPY MAILED**

JUN 2 0 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Bobby W. SANDAGE, JR., et al | : | |
| Application No. 11/299,688 | : | DECISION ON PETITION |
| Filed: December 13, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 215128.05202 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed December 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Gilberto M. Villacorta 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: PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, NW
EAST LOBBY, SUITE 700
WASHINGTON, DC 20007-5201

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AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

Mail Date: 06/03/2010

| | | |
|---|---|---|
| **Applicant** | : Randy S. Young | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7656811 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/299,706 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1086** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**MAYER & WILLIAMS PC**
**251 NORTH AVENUE WEST**
**2ND FLOOR**
**WESTFIELD NJ 07090**

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of
**MAGERS,** Michael
Application No. 11/299,708
Filed: December 12, 2005
Attorney Docket No. **123002**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 03, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Mark Wieczorek, the sole attorney of record. Mark Wieczorek has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 22, 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: **MICHAEL MAGERS**
**2330 CASA HERMOSA COURT**
**ENCINITAS CA 92024**

cc: **INNERCOOL THERAPIES, INC.**
**6740 TOP GUN STREET**
**SAN DIEGO CA 92121**

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Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Evelyn S. Framer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594287 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,716 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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YUNG-SHU YANG
P.O. BOX NO.6-57
JUNGHE, TAIPEI 235 TW TAIWAN

**MAILED**

MAR 2 9 2010

**OFFICE OF PETITIONS**

In re Application of
Yung-Shu Yang
Application No. 11/299,735
Filed: December 13, 2005
Attorney Docket No.

ON PETITION

This is in response to the communication, filed November 30, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On April 22, 2009, the Office mailed a non-final Office action, which set a one (1) month or thirty (30) day (which is longer) shortened statutory period to reply. The application became abandoned on May 23, 2009, for failure to submit a timely response to the non-final Office action. On November 17 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action. Specifically, petitioner states that a timely reply was mailed via certificate of transmission on July 22, 2009, which included the following papers: an election with a two (2) month extension of time.

## DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner states that a timely reply was mailed via certificate of transmission on July 22, 2009, which included the following papers: an election with a 2 month extension of time.
The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petition is missing item (3) from above. Although petitioner has supplied the Office with a copy of the previously mailed correspondence, the certificate of transmission bears a date July 22, 2007.

**ALTERNATIVE VENUE**

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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**SCHWARTZ LAW FIRM, P.C.**
**6100 FAIRVIEW ROAD, SUITE 11350**
**CHARLOTTE, NC 28210**

MAILED

MAY 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **Bradley R. LARSCHAN, et al.** | : | |
| Application No. 11/299,762 | : | DECISION ON PETITION |
| Filed: December 13, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. **321/29A** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue/publication fees on or before August 9, 2007, as required by the Notices of Allowance/Allowability, mailed May 9, 2007. Accordingly, the date of abandonment of this application is August 10, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755, the publication fee of $300; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED
MAY 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Ikuo Itakura et al. :
Application No. 11/299,802 : DECISION GRANTING PETITION
Filed: December 13, 2005 :
Attorney Docket No. 2986-0139PUS1 :

This is a decision on the "Petition to Accord Filing Date Since Complete Specifiction Was Timely Filed", filed April 3, 2006, which is treated as a petition under 37 CFR 1.53.

After the filing of the application, on February 3, 2006, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that, amongst other filing requirements, the application had not been accorded a filing date because the application was deposited without a complete specification including at least one claim and without drawings.

In response, the present petition, a complete copy of the specification including claims and three (3) sheets of drawings, were filed. Petitioners argue that the specification, including claims and drawings were filed with the other application papers on December 13, 2005. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of December 13, 2005, and the above-identified application number, and acknowledges receipt of, *inter alia*, a 4 page specification,1 page of claims, 1 page consisting of an abstract and 3 sheets of drawings was supplied.

Upon review, neither the specification, including claims and an abstract, or the drawings, purportedly deposited on December 13, 2005, have been located among the application papers. However, the evidence is convincing that the application papers deposited on December 13, 2005, included a 6 page specification which included claims and an abstract and 3 sheets of drawings. Therefore, the application, including a complete specification including claims and drawings, was complete on filing and entitled to a filing date of December 13, 2005.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed February 3, 2005, is withdrawn. Therefore, no petition fees are due and none have been charged.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of December 13, 2005, using the application papers filed on December 13, 2005 and the papers (specification including claims and drawings) supplied on April 3, 2006.

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

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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WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE, MD 21202-1626

**COPY MAILED**

FEB 21 2006

**OFFICE OF PETITIONS**

In re Application of :
Tilley : DECISION ON PETITION
Application No. 11/299,803 :
Filed: December 12, 2005 :
Atty. Dkt. No.: 010564.00034 :

This decision is in response to the "PETITION TO CORRECT FILING DATE (37 C.F.R. § 1.10(d) AND M.P.E.P. §513)," filed January 27, 2006.

Petitioner alleges that the instant application was deposited in Express Mail service December 12, 2005. As supporting evidence, petitioner has provided a copy of an Express Mail label bearing tracking number ER052429722US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and a "date-in" of December 12, 2005.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of December 12, 2005 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 12, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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 |
|---|---|---|---|---|---|---|---|
| 11/299,803 | 12/12/2005 | 1724 | 500 | 010564.00034 | 3 | 10 | 1 |

**CONFIRMATION NO. 8763**

**CORRECTED FILING RECEIPT**

*OC000000018161273*

25223
WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE, MD 21202-1626

Date Mailed: 03/09/2006

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)**

Greg A. Tilley, Monkton, MD;

**Assignment For Published Patent Application**

TVI Corporation, Glenn Dale, MD

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**Projected Publication Date:** To Be Determined - pending completion of Missing Parts

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Modular air purification unit

**Preliminary Class**
096

## 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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**OFFICE OF PETITIONS**

LAHIVE & COCKFIELD, LLP/THE MATHWORKS
FLOOR 30, SUITE 3000
One Post Office Square
Boston, MA 02109-2127

| | | |
|---|---|---|
| In re Application of Kumar | : | |
| Application No. 11/299,804 | : | Decision on Petition |
| Filing Date: December 12, 2005 | : | |
| Attorney Docket No. MWS-241RCE | : | |

This is a decision on the petition under 37 CFR 1.181 filed September 2, 2009, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice of Allowance on April 20, 2009. The Notice required submission of $1,510 for the issue fee and set a statutory period for reply of three (3) months.

The Office did not receive a reply to the Notice of Allowance. As a result, the Office mailed a Notice of Abandonment on August 13, 2009.

Petitioner requests withdrawal of the holding of abandonment based non-receipt of the Notice of Allowance.

The evidence supplied by petitioner is sufficient to establish non-receipt of the Notice of Allowance. Therefore, the holding of abandonment is withdrawn.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and will take steps to have the application issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/299,814 | 12/13/2005 | Chung-seob Na | Q92089 | 8733 |

7590 05/15/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER |
|---|
| FISHER, MICHAEL J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3689 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/15/2009 | 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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment Date: 05/19/2009 BPOWELL
12/15/2005 HMARZI1 00000011 194880 11299814
02 FC:1111 500.00 CR

Adjustment date: 05/19/2009 BPOWELL
12/15/2005 HMARZI1 00000011 194880 11299814
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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JUL 28 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

| | | |
|---|---|---|
| In re Application of | : | |
| HAYAMA, AKIRA, et al. | : | DECISION ON REQUEST TO |
| Application No. 11/299,830 | : | PARTICIPATE IN PATENT |
| Filed: December 13, 2005 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 02910.119258 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 8, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Justin S. Rerko & Associates, LLC
19836 Ellsworth Drive
Strongsville OH 44149

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SEP 2 6 2007

**OFFICE OF PETITIONS**

In re Application of
Hassebrock et al.

Application No. 11/299,853
Filed: July 2, 2005
Attorney Docket Number: AFD 735

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.183, filed September 6, 2006, to waive the requirement of 37 CFR 1.32(b)(4).

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 C.F.R. § 1.136(a) are not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition has **not** been reviewed on its merits because the petition has not been properly executed.

A review of the petition shows that the registration number of the attorney has not been provided. In accordance with 37 CFR 1.34, a paper filed by a registered patent attorney or agent in an application in which he or she is not of record must include his or her name and registration number with his or her signature.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Barry Kaplan
Myers & Kaplan
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road, Suite 310
Atlanta, GA 30339

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Bay Area Technolgy Law Group PC**
**500 Sansome Street, Suite 404**
**San Francisco CA 94111**

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Marian Cruz
Application No. 11/299,856
Filed: December 12, 2005
Attorney Docket No. 855.02

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2010, 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 September 8, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 10, 2009. The Notice of Abandonment was mailed March 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3742 for appropriate action on the concurrently filed Notice of Appeal and the Appeal Brief filed April 20, 2010.

Terri Johnson
Petitions Examiner
Office of Petitions

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gang Yu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607577 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,860 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **988** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**OFFICE OF PETITIONS**

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

In re Application of

John J. LANIGAN, JR, et al
Application No. 11/299,866
Filed: December 12, 2005
Attorney Docket No. 400500

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 June 18, 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 signed by applicant Myron Glickman. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

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 3752 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

Mail Date: 05/18/2010

| | | |
|---|---|---|
| **Applicant** | : Kang Yong Kim | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626416 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/299,888 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
1500 K STREET NW
SUITE 700
WASHINGTON, DC 20005

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JUN 22 2007

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Yoshinori Suzuki et al | : |
| Application No. 11/299,899 | : DECISION GRANTING PETITION |
| Filed: December 13, 2005 | : UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 10517-303 | : |

This is a decision on the petition, filed June 21, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 17, 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 3747 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\299899.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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MILBANK, TWEED, HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

Applicant: Peers-Smith et al.
Appl. No.: 11/299,908
Filing Date: December 14, 2005
Title: DEVICE FOR BREAKING GLASS
Attorney Docket No.: 37236.00000
Pub. No.: US 2006/0255084 A1
Pub. Date: November 16, 2006

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SEP 28 2007
OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 19, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the front page of the patent application publication contains an error, as the Assignee should be changed from "Roy Peter Peers-Smith; Anthony Graham Partington; and Martin Lawrance" to "Allen-Vanguard Limited".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the assignment information. The application was correctly published with the assignment information provided on the transmittal letter.[2]

Applicants should not file requests for corrected publication that include errors in assignment information or missing assignment information. See MPEP § 1130.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).
[2] See 37 CFR 1.215 and Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on December 19, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, and/or **complete copies 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.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**PO BOX 16370**
**OKLAHOMA CITY, OK 73113**

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JUN 30 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Bruce E.S. EASTWOOD | : | |
| Application No. 11/299,920 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | |
| Attorney Docket No. 2142.004 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 05, 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 May 01, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 01, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 02, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee payment 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 Office of Data Management.

Michelle R. Eason
Paralegal Specialist
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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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

**MAILED**

JUN 08 2010

OFFICE OF PETITIONS

In re Application of :
Luke Anderson et al. :
Application No. 11/299,929 : ON PETITION
Filed: December 12, 2005 :
Attorney Docket No. AND2-PT002 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 13, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned on November 25, 2009, for failure to timely file a reply to the Final Office action mailed August 24, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a)

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

were obtained. Accordingly, a Notice of Abandonment was mailed March 25, 2010.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of August 24, 2009, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the Final Office action mailed on August 24, 2009, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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 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

| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/299,929 | ANDERSON ET AL. | |
| | Examiner | Art Unit | |
| | J. Casimer Jacyna | 3754 | |

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 13 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on ____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   - (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   - (b) ☐ They raise the issue of new matter (see NOTE below);
   - (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   - (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): ____
6. ☐ Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ____
   Claim(s) objected to: ____
   Claim(s) rejected: *19-23*.
   Claim(s) withdrawn from consideration: ____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). ____
13. ☐ Other: ____

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754

Continuation of 3. NOTE: a) & b) Claiming the handle to be horizontally oriented above the pour spout in the first occurrence of claim 19, and to be be vertically above the pour spoutduring pouring in the second occurrence of claim 19 are new issues that would require further consideration or search. c) The second occurrence of claim 19 located after claim 24 is a newly added independent claim without cancelling any finally rejeceted claims. Claim 24 was already cancelled at the time of the final rejection .

Continuation of 11. does NOT place the application in condition for allowance because: As seen in figure 1 of Root, the base of the shield O is an elongated portion extending upwards from the body with the base O located on the edge of the spout B and spaced from the handle M, L wherein the spout is only located in the solid line up position during filling and in use is covering the spout B as shown in phantom in figure 2, The term tea kettle only appears in the preamble and is not part of the claimed combination. Lin dislcoses each and every limitation following the word "comprising" and thereby anticipates the claims. The distal end 7 of the Kuno shield which surrounds the handle 8 is located closer to the upper section of the pour spout 4 than it is to the handle 3

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JJGJR.: 03-06

Paper No: __

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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MAR 0 2 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Stephenson et al. | : | |
| Application No. 11/299,937 | : | ON PETITION |
| Filed: 12 December, 2005 | : | |
| Attorney Docket No. 470223.00049 | : | |

This is a decision on the petition filed on 25 January, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

## BACKGROUND

The record indicates:

- the instant application was filed on 12 December, 2005, without, *inter alia*, a fully executed oath/declaration;

- the Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the instant petition accompanied the application;

- on 12 December, 2005, Petitioner George E. Haas (Reg. No. 27,642) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventors Stephenson and Paik (for themselves and on behalf of non-signing co-inventor Peter A. Jahnke (Mr. Jahnke), and, while the statement of Petitioner avers transmittal of the entire application (description, claims, abstract and drawings) to non-signing co-inventor Mr. Jahnke, the transmittal letter speaks only to the declaration and the assignment–and the entire application (description, claims, abstract and drawings) as required by law.

## ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration

> acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in §1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> REFUSAL TO JOIN
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor

is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

## CONCLUSION

The record as it stands is deficient as to document support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 06-06

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411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Stephenson et al. | : | |
| Application No. 11/299,937 | : | ON PETITION |
| Filed: 12 December, 2005 | : | |
| Attorney Docket No. 470223.00049 | : | |

This is a decision on the petition filed on 31 March, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

## BACKGROUND

The record indicates:

- the instant application was filed on 12 December, 2005, without, *inter alia*, a fully executed oath/declaration;

- the Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the instant petition accompanied the application;

- on 12 December, 2005, Petitioner George E. Haas (Reg. No. 27,642) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventors Stephenson and Paik (for themselves and on behalf of non-signing co-inventor Peter A. Jahnke (Mr. Jahnke), and, while the statement of Petitioner avered transmittal of the entire application (description, claims, abstract and drawings) to non-signing co-inventor Mr. Jahnke, the transmittal letter spoke only to the declaration and the assignment–and the not entire application

(description, claims, abstract and drawings) as required by law, and so the petition was dismissed on 2 March, 2006;

- the instant petition provides the averment that the previously non-signing inventor now has signed the oath/declaration, and a copy of the oath/declaration bearing Mr. Jahnke's signature is attached in evidence;

- thus, it now appears that the oath/declaration has been signed by all inventors.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

## CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Shahriar Rokhsaz | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668238 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/299,975 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**SEATTLE, WA 98101**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **SMYTHE,** Alan H. et al. | : | |
| Application No. 11/299,980 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **115.0084US01/ 03-191** | : | FROM RECORD |

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 26, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Cascadia Intellectual Property has been revoked by the assignee of the patent application on February 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
**PLAZA VII- SUITE 3000**
**45 SOUTH SEVENTH STREET**
**MINNEAPOLIS MN 55402-1630**

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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AGOURON PHARMACEUTICALS, INC.
10777 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

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| | | |
|---|---|---|
| In re Application of | : | |
| Alcacio, et al. | : | |
| Application No. 11/300,017 | : | ON PETITION |
| Filed: December 14, 2005 | : | |
| Attorney Docket No. PC25832A | : | |

This is in response to the petition under 37 CFR 1.47(a), filed April 3, 2006 and supplemented on April 6, 2006.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Tim Edward Alcacio, has constructively refused to join in the filing of the above-identified application. The petition, signed by Attorney Edward D. Robinson, establishes that Mr. Alcacio was successfully mailed a copy of the application and declaration, but did not respond to multiple requests that he return an executed declaration. Petitioners have submitted a proper declaration for use with ADS.

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 forwarded to Technology Center Art Unit 1625 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/14/2010

| | | |
|---|---|---|
| **Applicant** | : Christopher Michael John | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7654445 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/300,028 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

# UNITED STATES PATENT AND TRADEMARK OFFICE

**UNITED STATES DEPARTMENT OF COMMERCE**
**United States Patent and Trademark Office**
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/300,031 | 12/14/2005 | Yuhuang Wang | 11321-P097US | 4122 |

47744 7590 04/26/2010
WINSTEAD PC
WINSTEAD PC
P. O. BOX 50784
DALLAS, TX 75201

| EXAMINER |
|---|
| OLSEN, ALLAN W |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1792 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/26/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

| | | |
|---|---|---|
| In re application of Wang et al | : | |
| U.S. Patent No. 7,585,420 | : | **DECISION ON** |
| Issued: September 8, 2009 | : | **PETITION** |
| Application Number: 11/300,031 | : | |
| Filed: December 14, 2005 | : | |
| For: CARBON NANOTUBE SUBSTRATES | : | |
| AND CATALYZED HOT STAMP FOR | : | |
| POLISHING AND PATTERNING THE | : | |
| SUBSTRATES | : | |

This is a decision on the petition filed on March 16, 2010 to correct inventorship in a patent under 37 CFR 1.324.

**Decision**

Applicants are deemed to have fulfilled the requirements under 37 CFR 1.324 in that the petition is accompanied by: (1) Statements from the currently named inventors, including the inventor whose name is being added, agreeing to the change of inventorship and that the error in inventorship occurred without deceptive intent; (2) A statement from the assignee of the parties submitting statements under (1) above agreeing to the change of inventorship in the patent in compliance with 37 CFR 3.73(b); and (3) the fee set forth in 37 CFR 1.20(b).

The statement form the newly added inventor (deceased) is signed by his legal representative and is deemed to be proper under 1.42.

The petition is **GRANTED**.

The file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate adding Richard E. Smalley as a co-inventor with Yuhuang Wang, Robert H. Hauge, Howard K. Schmidt, Myung Jong Kim, and W. Carter Kittrell.

.

/Parviz Hassanzadeh/
SPE AU 1716
Technology Center 1700
Chemical and Materials Engineering

WINSTEAD PC
P O BOX 50784
Dallas, Texas 75201

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Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Christopher Frank McConnell :
Application No. 11/300,042 : DECISION DISMISSING PETITION
Filed: December 13, 2005 :
Attorney Docket No. CFMC-0042 :
Title of Invention: System and :
Method For Wireless Audio :
Communication with a Computer :

This is a decision on the petition filed March 3, 2006, requesting that the USPTO accord the above-identified application a filing date of December 13, 2005 with Figures 6A-F and 7A-B as part of the original disclosure.

The petition is dismissed.

The application was filed on December 13, 2005. However, on January 25, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application"Notice" stating that the application had been accorded a filing date of December 13, 2005 and advising applicant that figures 6A-F and 7A-B as described in the specification appeared to have been omitted.

In response, on March 3, 2006, applicant filed the present petition. Applicant submits that the above identified application is a continuation-in-part application of Serial No. 10/529,415 filed March 29, 2005 which was incorporated by reference in its entirety into the present application. A copy of the specification indicating such incorporation by reference has been submitted. Since application 10/529,415 contains figures 6A-F and 7A-B which are referred to in the above-identified application, Applicant request that figures 6A-F and 7A-B be incorporated by reference into the above-identified application. A copy of figures 6A-F and 7A-B were also submitted.

MPEP 201.06 (c) states that:

> An applicant may incorporate by reference the prior application by including, in the continuation or divisional applicant-as-filed, an explicit statement that such specifically enumerated prior application or applications are 'hereby incorporated by reference.' This statement must appear in the specification. *See* 37 CFR 1.57(b) and MPEP § 608.01(p). The inclusion of this incorporation by reference statement will permit an applicant to amend the continuation or divisional application to include subject matter from the prior application(s), **without the need for a petition** provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

The drawing containing 6A-F and 7A-B submitted on March 3, 2006 will <u>not</u> be entered.

The petition fee will not be refunded because the petition was not necessitated by Office error.

The application will be returned to the Office of Initial Patent Examination for further processing with a **<u>filing date of December 13, 2005</u>**, using the application papers supplied on December 13, 2005.

Any inquiries related to this decision 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
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SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-001

**COPY MAILED**

APR 2 0 2006

**OFFICE OF PETITIONS**

In re Application of :
Robert W. Mackie Jr. :
Application No. 11/300,104 : ON PETITION
Filed: December 13, 2005 :
Attorney's Docket No. 47298.0100 :

This is a decision on the petition, filed March 30, 2006, requesting, that the above-identified application be accorded a filing date of December 13, 2005 with page 7 of the specification as a part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on December 15, 2005. However, on January 30, 2006 the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of December 15, 2005, and advising applicants that Page 7of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners assert that page 7 of the specification was filed with the other application papers on December 15, 2005. In support, petitioners include a copy of a postcard receipt in accordance with MPEP 503 and a declaration from the person with first hand knowledge of the filing of the application. However, the postcard receipt is illegible and therein cannot serve as proof of the contents of the papers filed with the original application.

A review of the Official file reveals that page 7 was not among the application papers filed on December 15, 2005. As the postcard receipt serves as the best evidence that the missing papers were timely deposited on December 15, 2005, petitioner should submit a legible postcard receipt with a renewed petition within TWO (2) MONTHS of the mailing date of this decision.

This matter will be held in abeyance in the Office of Petitions for TWO (2) MONTHS to await petitioner's submission of a legible postcard receipt with a renewed petition. If no reply is received within the two (2) month period, the matter will be referred to the Office

of Initial Patent Examination for further processing with the disclosure as presently filed. 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 concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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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SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-001

COPY MAILED
JUN 2 8 2006
OFFICE OF PETITIONS

In re Application of :
Robert W. Mackie Jr. :
Application No. 11/300,104 : DECISION ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. 47298.0100 :

This is a decision on the renewed petition filed May 18, 2006, in response to the Notice to File Missing Parts mailed January 30, 2006, and the decision mailed April 20, 2006, dismissing the petition, treated under 37 CFR 1.182 and filed March 30, 2006.

The Notice to File Missing Parts mailed January 30, 2006 indicated that Page 7 of the specification appeared to have been omitted. In response, petitioners asserted that the application as filed included a twenty (20) page specification, that the specification included Page 7 and that the postcard receipt was proof that twenty pages were filed on December 13, 2005. However, the postcard receipt submitted was not corroborative because it was illegible.

Proof of mailing of a twenty page specification, including Page 7, has been clarified with a legible copy of the postcard receipt, there still remains a discrepancy as to the number of drawings submitted upon filing.

In view of the above, the petition is **GRANTED**. A petition fee in the amount of $400.00 paid with the petition filed March 30, 2006 as well as a petition fee in the amount of $400.00 paid with the instant renewed petition will both be refunded to deposit account no. 19-2814 as neither is required in view of the evidence presented.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 13, 2005, using the application papers filed on December 13, 2005 and on petition March 30, 2006 and May 18, 2006.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

Sadler, Breen, Morasch & Colby, ps
422 W. Riverside Ave, Suite 424
Spokane, WA 99201

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Frank W. Ahern | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7657678 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/300,131 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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**DEREK H. MAUGHAN**
**DYKAS, SHAVER & NIPPER, LLP**
**PO BOX 877**
**BOISE, ID 83701-0877**

**COPY MAILED**

APR 0 7 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| George VAIS | : | |
| Application No. 11/300,149 | : | DECISION ON PETITION |
| Filed: December 13, 2005 | : | TO WITHDRAW |
| Attorney Docket No. VAIG104 | : | FROM RECORD |
| | : | |

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**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GEORGE VAIS
182 S. COLE ROAD
BOISE, ID 83709

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : Paul A. Farrar | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626252 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/300,151 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **446** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**DOUGLAS L. TSCHIDA**
**SUITE B**
**633 LARPENTEUR AVENUE WEST**
**ST. PAUL, MN 55113**

**COPY MAILED**

SEP 2 4 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kleemeier, Robert | : | |
| Application No. 11/300,177 | : | ON PETITION |
| Filed: December 14, 2005 | : | |
| Attorney Docket No. 205096 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 5, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 6, 2007. A Notice of Abandonment was mailed April 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. See 37 CFR 1.33(a).

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2612 for further examination on the merits.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT KLEEMEIER
633 LARPENTEUR AVE. WEST SUITE B
ST. PAUL, MN 55113

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

**June 24, 2009**

Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

Patent No.: 7,529,534 B2
Application No.: 11/300,191
Inventor(s): Marco Breiling
Issued: May 5, 2009
Title: **SIGNAL CONVERTER FOR CONVERTING A START SIGNAL TO AN END SIGNAL AND METHOD FOR CONVERTING A START SIGNAL TO AN END SIGNAL**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name or order of inventor's names, since inventor's names are printed solely in accordance with the typed/printed names (not the signatures), and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.322 and /or 1.323 (required fee currently $100), unless a petition is granted (See M.P.E.P. 605.04(b).

In view of the foregoing, your request, in this mater, is hereby denied.

Any request under 37 CFR 1.182 (required fee currently $130.00) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

**Virginia Tolbert**
For Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1591

vt

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 7/21/09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/300191 Patent No.: 7529534B2

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:** Approved. Thank you

/DUC NGUYEN/ — **SPE**

2618 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MORRISON & FOERSTER, LLP**
**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES, CA 90013-1024**

COPY MAILED

SEP 02 2008

| | | |
|---|---|---|
| In re Application of | : | |
| **BARRON,** William R. et al. | : | |
| Application No. 11/300,192 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **480062005800** | : | FROM RECORD |
| | : | |

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 05, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the applicant of the patent application on May 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
**611 ANTON BLVD**
**SUITE 1400**
**COSTA MESA CA 92626**

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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/300,200 | 12/14/2005 | Shinji Kobayashi | SONYJP 3.0-509 | 3767 |

7590 09/09/2009
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

| EXAMINER |
|---|
| CHIN, VIVIAN C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2614 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/09/2009 | 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.

Nicole Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 NFARMER
12/16/2005 EAYALEW1 00000036 121095 11300200
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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MAIL

JUN 14 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

In re Application of :
INSELBERG, ERIC :
Application No. 11/300,208 : DECISION ON PETITION
Filed: December 14, 2005 : TO MAKE SPECIAL
For: **METHOD AND APPARATUS FOR INTERACTIVE AUDIENCE PARTICIPATION AT A LIVE ENTERTAINMENT EVENT** :

This is a decision on the petition filed May 19, 2006 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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SEP 25 2006

OFFICE OF PETITIONS

AKIN GUMP STRAUSS HAUER & FELD, LLP
P O BOX 688
DALLAS, TX 75313-0688

In re Application of :
McCoy : DECISION ON PETITION
Application No. 11/300,218 :
Filed: December 14, 2005 :
Atty. Dkt. No.: 682407-0002 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 5, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application was became abandoned April 10, 2006 for failure to timely submit a proper reply to the Office communication mailed February 9, 2006. The Office action communication set a two month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

Petitioner alleges non-receipt of the Office communication. Petitioner indicates that a review of practitioner's mail log indicates non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the petitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The instant petition fails to comply with the above-referenced procedures. Any renewed petition must establish, as set forth above, non-receipt of the Office communication.

There is no indication in the official application file wrapper that practitioner was ever empowered to represent the instant application. If practitioner desires to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. **Practitioner is advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

There is no 3.73(b) statement (and supporting documentation) in the record for the assignee referenced in the requested change of correspondence address/power of attorney.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

| | |
|---|---|
| In re Application of | : |
| McCoy | : DECISION GRANTING PETITION |
| Application No. 11/300,218 | : UNDER 37 CFR 1.137(b) |
| Filed: December 14, 2005 | : |
| Docket No.: 131722-1000 | : |

This decision is in response to the renewed petition under 37 CFR 1.181, filed October 25, 2006.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely submit a proper reply to the Office communication mailed February 9, 2006. This decision precedes Notice of Abandonment.

Petitioner contends non-receipt of the Office communication mailed February 9, 2006.

Petitioner's arguments have been carefully considered and found convincing. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination for re-mailing of the Office communication. The period of time for reply will be set by the newly mailed Office communication.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : William Keith Fisher | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7585436 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,239 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

| | |
|---|---|
| In re Patent No. 7,567,315 | : DECISION ON REQUEST |
| Young-Suk Chung | : FOR |
| Issue Date: July 28, 2009 | : RECONSIDERATION OF |
| Application No. 11/300,251 | : PATENT TERM ADJUSTMENT |
| Filed: December 14, 2005 | : and |
| Atty Docket No. 12576-7026 | : NOTICE OF INTENT TO ISSUE |
| | : CERTIFICATE OF CORRECTION |

This is a decision on the petition filed on September 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred twenty-eight (828) 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 twenty-eight (828) days is **GRANTED**.

Pursuant to patentee's authorization, the $200.00 fee set forth in 37 CFR 1.18(e) is being charged to deposit account no. 23-1925. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred twenty-eight (828)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,567,315 B2

DATED : **July 28, 2009** **DRAFT**

INVENTOR(S) : Young-Suk Chung

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 602 days

Delete the phrase "by 602 days" and insert – by 828 days--

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UNITED STATES DEPARTMENT OF COMMERCE
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PITNEY BOWES INC.
35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484-3000

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Robert F. Marcinik | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7588239 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,260 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **703** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.: 20080611

DATE : December 13, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No. 11/300271 patent no. 7247713

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**Magdalene Talley**

**Certificates of Correction Branch**

**703-308-9390 ext. 116**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:**

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

**SPE**

1626
**Art Unit**

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**MEREK, BLACKMON & VOORHEES, LLC**
**673 S. WASHINGTON ST.**
**ALEXANDRIA VA 22314**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Brookey et al. | : | |
| Application No. 11/300,280 | : | ON PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. B5TEA004.C16 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3676 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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**OFFICE OF PETITIONS**

Applicant: David, et al.
Appl. No.: 11/300,284
Filing Date: December 15, 2005
Title: DISSYMMETRICAL DIAZO COMPOUNDS HAVING AT LEAST ONE 2-IMIDAZOLIUM UNIT AND A CATIONIC OR NON-CATIONIC LINKER, COMPOSITIONS COMPRISING THEM, METHOD OF COLORING, AND DEVICE
Attorney Docket No.: 05725-1548-00
Pub. No.: 2007/0010663-A1
Pub. Date: January 11, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 12, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in the specification wherein chemical structures (II'''), (III') and (III") were cut in half and not properly published.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in the wherein chemical structures (II'''), (III') and (III") were cut in half and not properly published are not material Office errors under 37 CFR 1.221. The chemical structures were not printed correctly due to the quality of the text. The errors noted by requestor in the in this published application are due to the quality of the text, as the text is very, very small. The text is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. The text is very small, which makes it difficult to read and to

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

Applicants are 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 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.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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THOMAS L. IRVING
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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Applicant: Herve David, et al.
Appl. No.: 11/300,284
Filing Date: December 15, 2005
Title: DISSYMMETRICAL DIAZO COMPOUNDS HAVING AT LEAST ONE 2-IMIDAZLOIUM UNIT AND A CATIONIC OR NON-CATIONIC LINKER, COMPOSITIONS COMPRISING THEM, METHOD OF COLORING, AND DEVICE
Attorney Docket No.: 5725.1548-00
Pub. No.: US 2009/0062517 A1
Pub. Date: March 5, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) or (a), received on May 4, 2009, for the above-identified application.

The application became abandoned on September 10, 2009.

The request is DISMISSED as moot.

Since the application has been abandoned, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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C. Irvin McClelland
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of

Dong-II Byun

Application No. 11/300,292
Filed: December 15, 2005
Attorney Docket No. 283095US8

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 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 C. Irvin McClelland on behalf of all attorneys of record who are associated with Customer No. 22850.

All attorneys/agents associated with the Customer No. 22850 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

There is 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: **Dong-II Byun**
222-1, Dodang-dong, Wonmi-gu
Bucheon-city, Kyunggi-do 420-712
Korea

cc: **Dongbu Electronics Co., Ltd.**
Dongbu Electronics A1-Dong (FAB-Dong)
5th Floor, Technical Alliance (T/A) Team
Dodang-Dong 222-1, Wonmi-ku, Bucheon-Si
Kyunggi-Do, 420-807
Korea

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/300,292 | 12/15/2005 | Dong-Il Byun | 283095US8 |

**CONFIRMATION NO. 4014**

*OC000000021363766*

*OC000000021363766*

22850
C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Date Mailed: 11/27/2006

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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LLP
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WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

Applicant: David et al.
Appl. No.: 11/300,314
Filing Date: December 15, 2005
Title: DYSSYMMETRICAL DIAZO COMPOUNDS HAVING AT LEAST ONE 4-PYRIDINIUM UNIT AND A CATIONIC OR NON-CATIONIC LINKER, COMPOSITIONS COMPRISING THEM, METHOD OF COLORING, AND DEVICE
Attorney Docket No.: 05725.1546-00
Pub. No.: US 2006/0156489 A1
Pub. Date: July 20, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 20, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material mistakes in Synthesis of Compound 11 on page 22.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor in the Synthesis of Compound 11 on page 22 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the Synthesis of Compound 11 on page 22 is due to the quality of the text in the formula. The quality of the text is poor, as it is small and blurry, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the application is small and not clear, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
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P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 29 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Yuichi Akiyama et al. | : | |
| Application No. 11/300,316 | : | DECISION GRANTING PETITION |
| Filed: December 15, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 1460.1018D | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21 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 November 2, 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 should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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 of the application.*

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**VENABLE LLP**
**P.O. BOX 34385**
**WASHINGTON DC 20043-9998**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,428,828 | : | |
| Issue Date: September 30, 2008 | : | |
| Application No. 11/300,344 | : | DECISION ON PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. 03-1044A | : | |

This is a decision on the petition, filed, February 09, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner request to add "Matsushita Electric Industrial Co., Ltd. Kadoma-shi (JP)" as the assignee's name was not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Matsushita Electric Industrial Co., Ltd. Kadoma-shi (JP)" is an 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 after issuance of this application into a patent.

The petition processing fee of $130.00 set forth in § 1.17(i) will be charged to the petitioners deposit account.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/20/2010

| | | |
|---|---|---|
| **Applicant** | : Soon-Seob Han | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639695 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/300,357 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**ANTONELLI, TERRY, STOUT & KRAUS**
**1300 NORTH SEVENTEENTH STREET**
**SUITE 1800**
**ARLINGTON VA 22209-3873**

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JAN 16 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jacques Lavy et al | : | DECISION REFUSING STATUS |
| Application No. 11/300,393 | : | UNDER 37 CFR 1.47(a) |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. 612.45706X00 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed September 11, 2006.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item(s) (1) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication herein that joint inventor Jean-Baptiste Dementhon was presented with a copy of the complete application papers for this application. From the evidence of record, it only appears that the joint inventor was presented with a copy of the Power of Attorney and an Assignment. If the joint inventor was not presented with a copy of the application papers for this application, then the joint inventor could not attest that he/she have "reviewed and understand the application papers" and could not execute the declaration he/she were requested to sign. Did the joint inventor receive a copy of the application papers? The fact that an application may contain proprietary information does not relieve the rule 47 applicant of the responsibility to present the application papers to the joint

inventors if the inventors are willing to receive the papers in order to sign the oath or declaration. Unless petitioner can show that a copy of the application papers were presented to the joint inventor, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to the last known address of the joint inventor, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. **The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** *See* MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made.** Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**ANTONELLI, TERRY, STOUT & KRAUS, LLP**
**1300 NORTH SEVENTEENTH STREET**
**SUITE 1800**
**ARLINGTON VA 22209-3873**

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|---|---|---|
| In re Application of | : | |
| Jacques Lavy et al | : | DECISION GRANTING STATUS |
| Application No. 11/300,393 | : | UNDER 37 CFR 1.47(a) |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. 612.45706X00 | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 16, 2007.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JUL 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,373,835 :
Issue Date: May 20, 2008 :
Application No. 11/300,445 : DECISION ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. 066097-0019 :

This is a decision on the Request for Certificate of Correction under 37 CFR Petition under 37 CFR 1.323, filed December 15, 2008, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct name of assignee. The Request has been treated as a Petition under 37 CFR 3.81. A completed Certificate of Correction Form (PTO/SB/44) accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from "Sanyo Electric Industries, Ltd." to:

--Sanyo Electric Co., Ltd.--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a) has previously been submitted. However, the petition was accompanied deposit account authorization to charge any required fees. As such, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been charged as authorized in the petition. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,373,835.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**SUGHRUE MION, PLLC**
**2100 PENNSYLVANIA AVENUE, N. W.**
**SUITE 800**
**WASHINGTON DC 20037**

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JUN 15 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,530,534 | : | |
| Issued: May 12, 2009 | : | |
| Application No. 11/300,471 | : | ON PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. Q91964 | : | |

This is a decision on the petition, filed April 28, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to change the assignee on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***.

However, current Patent and Trademark Office assignment records disclose that an assignment recorded on January 23, 2007, prior to the date of issuance of this patent, lists "Alcatel Transport Solution Deutschland GMBH" as the most recent assignee, not "Alcatel" as petitioner has requested.

Petitioner is requesting that the Certificate of Correction reflect the former assignment submitted on December 15, 2005.

Inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Kassen OLDEWURTEL

Appln. No.: 11/300,471

Confirmation No.: 3508

Filed: December 15, 2005

Docket No: Q91964

Allowed: January 13, 2009
Issue Fee Paid: April 6, 2009

Group Art Unit: 3617

Examiner: Mark T. Le

For: METHOD FOR SETTING AN OUTPUT VOLTAGE OF A RECEIVING CIRCUIT OF A RECEIVING HEAD OF A RAIL CONTACT AND RAIL CONTACT SYSTEM

**PETITION UNDER 37 C.F.R. § 1.183 TO CORRECT ASSIGNEE**

06/15/2009 CKHLOK 00000013 194880 7530534
01 FC:1808 130.00 DA

**MAIL STOP PETITION**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

06/15/2009 CKHLOK 00000014 194880 7530534
01 FC:1811 100.00 DA

Sir:

Applicant hereby requests that the requirements of 37 C.F.R. § 1.183 be waived to correct the assignee in the above application under 37 C.F.R. § 1.183 as outlined below.

- The Assignment was recorded to Alcatel on December 15, 2005, at Reel 017369, Frame 0198.
- The Issue Fee was paid on April 6, 2009.
- The Assignee name of "Alcatel (Assignment to Thales pending) was erroneously listed on the Issue Fee Transmittal form (copy attached).
- The correct Assignee is "Alcatel" as recorded on the Assignment filed December 15, 2005.

It is requested that the patent for the above application issue in the name of "Alcatel".

Adjustment date: 06/15/2009 CKHLOK
05/04/2009 INTEFSW 00002373 194880 11300471
01 FC:1811 100.00 CR

The error was editorial in nature.

Adjustment date: 06/15/2009 CKHLOK
04/29/2009 INTEFSW 00001883 194880 11300471
01 FC:1464 130.00 CR

The USPTO is directed and authorized to charge the petition fee of $130.00 (37 C.F.R. §1.17(h)) and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/DJCushing/
David J. Cushing
Registration No. 28,703

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: April 28, 2009

# PART B - FEE(S) TRANSMITTAL

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
SUITE 800
WASHINGTON, DC 20037

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.

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/300,471 | 12/15/2005 | Kassen OLDEWURTEL | Q91964 | 3508 |

TITLE OF INVENTION: METHOD FOR SETTING AN OUTPUT VOLTAGE OF A RECEIVING CIRCUIT OF A RECEIVING HEAD OF A RAIL CONTACT AND RAIL CONTACT SYSTEM

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE | PUBLICATION FEE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| nonprovisional | NO | $1510.00 | $300.00 | $0.00 | $1,810.00 | 04/13/2009 |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|---|---|---|
| Mark T. Le | 3617 | 246-00100R |

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 Sughrue Mion, PLLC
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)

ALCATEL (assignment to THALES pending) Paris, France

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 1310-2038 is attached.

☑ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 19-4880 .

☑ The USPTO is directed and authorized to charge all required fees to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

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 | /DJCushing/ | Date | April 6, 2009 |
| Typed or Printed Name | David J. Cushing | Registration No. | 28,703 |

Modified PTOL-85 (Rev. 08/08 Approved for use through 08/31/2010.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/29/2010

| | | |
|---|---|---|
| **Applicant** | : Frank Haegebarth | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613563 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/300,472 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **399** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Sebastien Bigo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7599628 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,474 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **687** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of :
Kogure, et al. :
Application No. 11/300,475 : ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. Q92088 :

This is a decision on petition filed on April 6, 2006, requesting that the above-identified application be accorded a filing date of December 15, 2005, including Figures 1A and 1B.

The application was submitted on December 15, 2005. However, on February 7, 2006, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that Figure 1B described in the specification appears to have been omitted.

In response, on April 6, 2006, the instant petition was submitted.

Petitioner states, in pertinent part:

> "(1) Figs. 1A and 1B, as submitted herewith, appeared in parent application 10/953,531, from which priority is claimed.
> (2) The present application expressly incorporated the parent application 10/953,531 by reference in the transmittal letter filed with the original application on December 15, 2005."

MPEP 201.06(c) states, in pertinent part:

> B. Application Entitled to a Filing Date
>
> If a continuation or divisional application as originally filed on or after September 21, 2004 does not include an explicit incorporation by reference statement and is entitled to a filing date despite the inadvertent omission of a portion of the prior application(s), applicant may be permitted to add the omitted material by way of an amendment under

> 37 CFR 1.57(a). Such an amendment must be made within any time period set by the Office. See 37 CFR 1.57(a)(1).
>
> If an application as originally filed included a proper explicit incorporation by reference statement (or an explicit incorporation by reference statement that has been made effective under 37 CFR 1.57(g)), the omitted specification page(s) and/or drawing figure(s) may be added by amendment provided the omitted item(s) contains only subject matter in common with a document that has been properly incorporated by reference. If the Office identified the omitted item(s) in a "Notice of Omitted Item(s)," applicant need not respond to the "Notice of Omitted Item(s)." Applicant should, however, submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If applicants desire that the missing Figures be added to the application, the appropriate procedure is by way of amendment requesting the entry of the Figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

It is noted that applicant has filed a preliminary amendment that adds the Figures on April 6, 2006.

Accordingly, the petition is dismissed.

Please note, the petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 15, 2005, using only the papers submitted on that date.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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**OFFICE OF PETITIONS**

In re Application of
Kerres et al.
Application No. 11/300,479
Filed: December 15, 2005
Attorney Docket No. M 16755-1C US

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed May 9, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the Office Action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed May 9, 2006 which set a two (2) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 10, 2006. A Notice of Abandonment was mailed September 29, 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 referred to Art Unit 1723 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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Matthias GOLDBACH, et al
Application No. 11/320,489
Filed: December 29, 2005
Attorney Docket No. 543822021600

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: MATTHIAS GOLDBACH
HOHNSTEINER STRASSE 1
01099 DRESDEN
GERMANY

cc: GERO G. MCCLELLAN,
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD,
SUITE 1500
HOUSTON, TX 77056

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 |
|---|---|---|---|
| 11/320,489 | 12/29/2005 | Matthias Goldbach | 543822021600 |

**CONFIRMATION NO. 7558**

*OC000000025719394*

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/07/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Ning Guo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7583583 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,508 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **801** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**GERBER PRODUCTS COMPANY**
**12 VREELAND ROAD, 2ND FLOOR, BOX 697**
**FLORHAM PARK NJ 07932**

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FEB 05 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Daniel LANTZ et al. | : | |
| Application No. 11/300,531 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | |
| Attorney Docket No. 8575-US | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3) above.

Turning first to item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by F. G. Gomez, who is stated to be the Vice President. Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and the record herein fails to disclose that petitioner herein (F. G. Gomez) was ever given a power of attorney to act on behalf of the other inventors, **or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)**, the petition is considered to not contain a proper statement of unintentional delay. As it appears that Mr. F. G. Gomez is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied.

In this regard, 37 CFR 3.73(b) provides:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment * * * For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the

original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

In view of the above, and as it appears that Mr. F. G. Gomez is signing the statement of unintentional delay as an assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

As to item (1) above, the reply is considered defective also for the reasons stated above (that the paper (reply) must be signed by a proper party; *i.e.*, all the inventors or an assignee of the entire interest and, if signed by an assignee of the entire interest, must satisfy the provisions of 37 CFR 3.73(b).

In sum, petitioner must submit a petition containing a statement of unintentional delay and reply (amendment) signed by all the inventors, **unless** petitioner herein is the assignee of the entire right, title and interest in the instant application, then compliance with 37 CFR 3.73(b) must be satisfied, which can be accomplished by completion of the enclosed certificate under 37 CFR 3.73(b).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **WINSTON & STRAWN LLP**
**PATENT DEPARTMENT**
**1700 K STREET, N.W.**
**WASHINGTON, DC 20006**

Enclosure: Certificate under 37 CFR 3.73(b) and Privacy Act Statement

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**WINSTON & STRAWN LLP**
**PATENT DEPARTMENT**
**1700 K STREET, N.W.**
**WASHINGTON DC 20006**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Daniel LANTZ et al. | : | |
| Application No. 11/300,531 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | |
| Attorney Docket No. 85896-8575 | : | |

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 06, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 12, 2008, is accepted as having been unintentionally delayed.

The power of attorney filed by the assignee with the petition on April 06, 2010 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 3767 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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DUANE MORRIS LLP - NY
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK NY 10036-4086

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Schatteman et al.
Application No. 11/300,562
Filed: December 13, 2005
Attorney Docket No. Y2428-00096

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 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 February 27, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3725 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Prashant Kumar Singhai | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613281 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,569 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **467** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PATENT
HES 2005-IP-018534U2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | | |
|---|---|---|
| Applicants: | Jiten Chatterji et al. | |
| Serial No.: | Unknown 11/300614 | Art Unit: Unknown 1712 |
| Filed: | Concurrently Herewith 12-13-05 | Examiner: Unknown |
| For: | WATER-BASED POLYMERS FOR USE AS FRICTION REDUCERS IN AQUEOUS TREATMENT FLUIDS | |

**Commissioner for Patents**
**Alexandria, VA 22313-1450**

**ATTENTION: Group Director**

**DECLARATION IN SUPPORT OF PETITION**
**TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE**
**(37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, IV)**

I, the person signing below hereby declare:

1. That, I am over 65 years of age; and

2. 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 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Jiten Chatterji

JAN 30 2006

**PETITION GRANTED**

William Krynski,
Special Program Examiner
Technology Center 1700

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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HALLIBURTON ENERGY SERVICES, INC.
2600 S. 2ND STREET
DUNCAN, OK 73536-0440

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| | | |
|---|---|---|
| In re Application of | : | |
| Karen L. King et al | : | |
| Application No. 11/300,615 | : | DECISION ON PETITION |
| Filed: December 13, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 2005-IP-018534U1 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 13, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Jiten Chatterji stating that he/she is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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.

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 1712 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert A. Kent
P.O. Box 1431
Duncan, OK 73536-0440

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OFFICE OF PETITIONS

JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG, OH 45342

In re Application of
David Gang Wang
Application No. 11/300,624
Filed: December 14, 2005
Attorney Docket No. 11963

ON PETITION

This is a decision on the petition, filed March 3, 2008, to revive the above-identified application under 37 CFR 1.137(b).

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 August 8, 2007. A Notice of Abandonment was mailed on February 26, 2008. In response, on March 3, 2008 the present petition was filed, including (1) a Notice of Appeal and fee and (2) an Appeal Brief and fee.

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 $510; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3749 for appropriate action on the Appeal Brief filed March 3, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of :
Magno, Jr., et al. :
Application No. 11/300,627 : DECISION ON PETITION
Filed: December 14, 2005 :
Attorney Docket No. 577-699 :

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182", filed February 6, 2006, requesting, in effect, that the above identified application be accorded a filing date of December 14, 2005, with Figures 3 and 4 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on December 14, 2005. However, on January 24, 2006, the Office mailed a "Notice of Omitted Items", stating that the application had been accorded a filing date of December 14, 2005; however, Figures 3 and 4 of the drawings appeared to have been omitted.

In response, the present response was filed. Petitioner argues that Figures 3 and 4 were included with the application papers as originally filed. However, petitioner has not submitted a postcard receipt as *prima facie* evidence. Petitioner does state that the instant application claims priority to provisional application 60/636,766, and that Figures 3 and 4 are representations of the informal drawing Figures 3 and 4a of the provisional application.

Pages not present on the filing date cannot be considered a part of the original disclosure of the application. As Figures 3 and 4 of the drawings were not present in the Office on December 14,

2005, the application can not be accorded the December 14, 2005 filing date with Figures 3 and 4 of the drawings as a part of the original disclosure.

Accordingly, the Notice mailed on January 24, 2006 **was** correct in stating that Figures 3 and 4 of the drawings appeared to have been omitted from the application papers filed on December 14, 2005. Therefore, the requirement for the omitted figures of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the first line of the specification included an incorporation by reference via a priority claim pursuant to 37 C.F.R. § 1.57(a).

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 added).

Obviously, in view of the incorporation by reference via the priority claim, Figures 3 and 4 of the drawings are not new matter if they were a part of the disclosure of provisional application No. 60/636,766.

Applicants should file an amendment adding Figures 3 and 4 of the drawings for consideration by the Examiner prior to the first Office action. Alternatively, if applicants have a postcard receipt, applicants can supply such on renewed petition to establish that Figures 3 and 4 of the drawings were present on filing.

As this petition was necessitated by applicant's filing error rather than an error on the part of the Office, the petition fee of $400 has been charged and will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed December 14, 2005.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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HOFFMANN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

| | | |
|---|---|---|
| In re Application of | : | |
| Magno, et al. | : | |
| Application No. 11/300,627 | : | DECISION REFUSING STATUS |
| Filed: December 14, 2005 | : | UNDER 37 CFR 1.47(a) |
| Attorney Docket No. 577-699 | : | |

This is in response to the petition under 37 CFR 1.47, filed December 14, 2005, which is properly treated as a petition under 37 CFR 1.47(a).[1]

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

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**

[1] A petition under 37 CFR 1.47(a) applies when at least some of the inventors have signed the oath or declaration. A petition under 37 CFR 1.47(b) is applicable when none of the inventors have signed.

**application papers (specification, claims and drawings)**; (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy items (1) and (2).

As to item (1), the petition and accompanying evidence have been carefully considered. However, it has not been demonstrated that a copy of the application papers (comprising the specification, claims, and drawings) was sent to inventor Gibbon. Rather, the petition only establishes that Gibbon was presented with a copy of the assignment and declaration documents in the letter mailed on September 23, 2005.

Regarding an inventor's refusal to join in the application, Manual of Patent Examining Procedure § 409.03(d) states:

> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956).

On renewed petition, petitioner must establish that a copy of the application papers have been presented to Gibbon. If the application papers were forwarded with the assignment and declaration documents on September 23, 2005, petitioner can so state for the record.

As to requirement (2), the signature block for inventor Gibbon should be left blank. As this is not a 37 CFR 1.47(b) petition, it is not acceptable that another party sign for Gibbon. Rather, a declaration with a blank signature block for the non-signing inventor will be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

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[2] See MPEP 409.03(a).

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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|---|---|---|
| In re Application of | : | |
| Magno, et al. | : | |
| Application No. 11/300,627 | : | DECISION ACCORDING STATUS |
| Filed: December 14, 2005 | : | UNDER 37 CFR 1.47(a) |
| Attorney Docket No. 577-699 | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 17, 2009.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Applicant filed a petition under 37 CFR 1.47(a) on December 14, 2005. However, the petition was dismissed in a decision mailed on November 6, 2009. The decision explained that petitioner had not shown that a copy of the application papers was forwarded to the non-signing inventor. In addition, petitioner did not submit a proper 37 CFR 1.63 declaration.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Data Management to await for applicants' submission of the issue fee, in response to the November 23, 2009 Notice of Allowance.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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3700 MCCANN RD #244
LONGVIEW TX 75605

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DEC 03 2009

OFFICE OF PETITIONS

In re Application of
Magno, et al.
Application No. 11/300,627
Filed: December 14, 2005
Title: Expansion-Deflection Coupling

LETTER

Dear Mr. Gibbons:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Joey D. Magno JR. | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7644957 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,627 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**THE ECLIPSE GROUP**
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**GRANADA HILLS CA 91344**

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| | | |
|---|---|---|
| In re Application of | : | |
| Gronemeyer, Steven A. | : | |
| Application No. 11/300,633 | : | DECISION ON PETITION |
| Filed: December 13, 2005 | : | |
| Attorney Docket No. ST04004C11C1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 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 Election, (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 3663 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kaiyuan Yang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618810 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,650 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HIGHLANDS RANCH CO 80129

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of
Brian Hicke et al.
Application No. 11/300,662
Filed: December 13, 2005
Attorney Docket No. NEX86/PCT-USC
Title: TENASCIN-C NUCLEIC ACID LIGANDS

DECISION ON PETITION

This is a decision on the petition filed January 6, 2006, requesting that the above-identified application be accorded a filing date of December 13, 2005, with Figure 4 as part of the original disclosure of the application.

The application was deposited on December 13, 2005. However, on December 29, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figure 4. The notice set a two-month period for response.

On January 6, 2006, the instant petition was filed, along with Figure 4, a copy of the notice, and an amendment requesting the entry of Figure 4. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner contends that this figure was omitted on filing, but was constructively included, through incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. The specification indicates that the instant application is a continuation of application 10/031,193, and the Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application is incorporated by reference.

Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

For these reasons, the petition under 37 CFR §182 is **GRANTED-IN-PART**.

The application will receive a filing date of December 13, 2005. However, the figure submitted with the instant petition will not be entered.

Petitioner desires for the missing figure to be included, and has properly submitted this page via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $400.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 13, 2005, using only the application papers filed on that date.

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(a).

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**GRANT ANDERSON LLP**
**C/O PORTFOLIOIP**
**P.O. BOX 52050**
**MINNEAPOLIS, MN 55402**

**MAILED**

FEB 06 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Dee L. **CONGER, et al.** | : | |
| Application No. 11/300,664 | : | DECISION GRANTING PETITION |
| Filed: December 13, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **INO-1001-UT** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on January 7, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/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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BARNES & THORNBURG, LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kenith W. Chambers | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648392 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,667 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1011** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**DYKEMA GOSSETT PLLC**
**10 S. WACKER DR., STE. 2300**
**CHICAGO, IL 60606**

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**OFFICE OF PETITIONS**

In re Application of
Madhup K. DHAON et al.
Application No. 11/300,671
Filed: December 14, 2005
Attorney Docket No. 065379-0006

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 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 February 02, 2006. 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 April 04, 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 the required fees and oath or declaration; (2) the petition fee of $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of February 02, 2006 is accepted as having been unintentionally delayed.

The power of attorney included in the declaration filed by the inventor/applicant with the petition on October 16, 2007 has been accepted and made of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Office of Initial Patent Examination.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Haris J. Sih | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7574258 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,674 | : OF WYETH |
| **Filed** | : 12/14/2005 | : |
| | | : |

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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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 05/18/2010

**Applicant** : Haris J. Sih
**Patent Number** : 7574258
**Issue Date** : 08/11/2009
**Application No** : 11/300,674
**Filed** : 12/14/2005

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA deterimation in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : John Hatlestad | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7662105 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,675 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **605** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

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MAR 3 0 2007

**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Thomas F. Hennessey
Application No. 11/300,678
Filed: December 14, 2005
Attorney Docket No. 5756

This is a decision on the request for corrected filing receipt, filed January 31, 2007, to correct the filing date to December 14, 2005, rather than the presently accorded filing date of December 15, 2005. The petition is treated under 37 CFR 1.10( c).

Petitioner alleges that the application was deposited in Express Mail service on December 14, 2005. In support, petitioner supplies a copy of Express Mail Label No. EO915263731US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is December 14, 2005.

A review of the USPS Internet Track & Confirm and database also shows that a mailing bearing Express Mail Label No. EO915263731US was delivered on December 15, 2005 and thus could not have been deposited on the same date as the filing date accorded by the USPTO. In view thereof, the evidence presented corroborates the claim that the filing date is December 14, 3005.

The petition is **GRANTED** and since no fee is due, none will be charged to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to December 14, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**Sanjay S. Bagade**
**Levine Bagade Han, LLP**
**2483 E. Bayshore Road**
**Suite 100**
**Palo Alto CA 94303**

**MAILED**

JUN 10 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John H. Shadduck | : | |
| Application No. 11/300,689 | : | ON PETITION |
| Filed: December 14, 2005 | : | |
| Attorney Docket No. S-500-00100A | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 8, 2008 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 9, 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 election; (2) the petition fee of $810; 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 3739 for appropriate action the concurrently filed election.

Chris Bottorff
Petitions Examiner
Office of Petitions

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APR 29 2010

OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 GENG ROAD SUITE 120
PALO ALTO CA 94303

| | | |
|---|---|---|
| In re Application of | : | |
| John H. Shadduck | : | |
| Application No. 11/300,689 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. SHDDNA00100 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(2), filed February 4, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the concurrently filed Amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

**(2)** the surcharge set forth in § 1.17(t); and

**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as currently drafted because there is no co-pendency between application Nos. 10/282,555 and 09/614,613. The '613 application became abandoned on September 21, 2002. The '555 application was not filed until October 28, 2002. See MPEP 201.11(II)(B).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required. Alternatively, applicant can file a petition to revive the '613 application for purposes of copendency.

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 Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

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**WOODCOCK & WASHBURN LLP**
**ONE LIBERTY PLACE, 46TH FLOOR**
**PHILADELPHIA PA 19103**

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DEC 21 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **LEE**, et al. | : | |
| Application No. 11/300,695 | : | DECISION ON PETITION |
| Filed: December 15, 2005 | : | TO WITHDRAW |
| Attorney Docket No. CING-0186/C05-0127-000 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 9, 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 Christopher M. Arena on behalf of all attorneys of record who are associated with customer No. 54499. All attorneys/agents associated with the Customer Number 54499 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: **BO LEE**
**310 MILTON OAKS CIRCLE**
**ALPHARETTA, GA 30022**

cc: **BANNER & WITCOFF, LTD.**
**ATTORNEYS FOR CLIENT NO. 006004**
**1001 G STREET, N.W., 11TH FLOOR**
**WASHINGTON, DC 20001-4597**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/300,695 | 12/15/2005 | Bo Lee | CING-0186/C05-0127-000 |

**CONFIRMATION NO. 3873**

*OC000000021689660*

54499
WOODCOCK & WASHBURN LLP
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA, PA 19103

Date Mailed: 12/20/2006

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2006.

- 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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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**CHRISTIE, PARKER & HALE, LLP**
**PO BOX 7068**
**PASADENA CA 91109-7068**

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FEB 17 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James, Stephen C. | : | DECISION ON PETITION |
| Application No. 11/300,708 | : | TO MAKE SPECIAL |
| Filed: December 14, 2005 | : | 37 CFR1.102(D) |
| Attorney Docket No. 56739/J106 | : | |

This is a decision on the petition under 37 CFR §1.102(d), filed January 10, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it lacks item (B), as stated above. Petitioner has not stated that a *rigid comparison* has been conducted or that some of the claims are *unquestionably infringed.*

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2833 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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255 EAST FIFTH STREET
CINCINNATI OH 45202

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Carter, et al. | : | |
| Application No. 11/300,714 | : | ON PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. 9116-761 | : | |

This decision is in response to the petition under 37 CFR 1.47(a), filed April 26, 2006 (certificate of mailing date April 21, 2006).

The petition under 37 CFR 1.47(a) is **GRANTED.**

Petitioner has shown that the non-signing inventors, Daniel Larry Carter and Dinesh Ochhavial Shah, have constructively refused to join in the filing of the above-identified application. The petition, signed by Attorney Geoffrey L. Oberhaus establishes that the non-signing inventors' employer, the University of Florida, instructed the non-signing inventors not to sign the declaration and the two non-signing joint inventors have not returned executed declarations.

A non-signing inventor usually must have a copy of the application in his/her possession in order to make a knowing refusal to join in the filing of an application. Petitioner is on notice that e-mailing inventors is generally not recommended, as it is difficult to ascertain whether the inventors received the e-mail, could open the attachments, etc.. In the instant case, while is unknown whether or not the two non-signing inventors received petitioner's e-mails and the text of the application, the letter of March 15, 2006 from David L. Day, Director of the Office of Technology Licensing at the University of Florida to Attorney Oberhaus makes it indisputable that the non-signing inventors' employer ordered them not to sign the declaration.

Therefore, 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 forwarded to Technology Center Art Unit 1751 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DANIEL LARRY CARTER
4005 SW 21ST STREET
APT. B
GAINSVILLE, FL 32607

**COPY MAILED**

JUN 0 1 2006

**OFFICE OF PETITIONS**

LETTER

In re Application of :
Carter, et al. :
Application No. 11/300,714 :
Filed: December 15, 2005 :
Attorney Docket No. 9116-761 :

Dear Mr. Carter:

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: DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

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DINESH OCHHAVIAL SHAH
2615 NW 21 STREET
GAINSVILLE, FL 32605

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JUN 0 1 2006

**OFFICE OF PETITIONS**

In re Application of :
Carter, et al. :
Application No. 11/300,714 :
Filed: December 15, 2005 :
Attorney Docket No. 9116-761 :

LETTER

Dear Mr. Shah:

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: DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS & KAPLAN INTELLECTUAL PROPERTY LAW, LLC
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

**COPY MAILED**

MAR 07 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Louis Horvath | : | |
| Application No. 11/300,734 | : | DECISION ON PETITION |
| Filed: December 15, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 29770-RA | : | 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 Louis Horvath's birth certificate showing that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3634 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**MYERS & KAPLAN**
**INTELLECTUAL PROPERTY LAW, L.L.C.**
**CUMBERLAND CENTER II**
**3100 CUMBERLAND BLVD , SUITE 1400**
**ATLANTA GA 30339**

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MAY 1 8 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Horvath, Louis | : | |
| Application No. 11/300,734 | : | DECISION GRANTING PETITION |
| Filed: December 15, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 29770-RA | : | |

This is a decision on the petition, filed March 22, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 24, 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 August 23, 2007, accompanies this decision on petition.

This application is being forwarded to Technology Center AU 3634 to await a reply to the outstanding final Office action mailed March 27, 2007. Failure to timely reply will again result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|---|---|---|---|
| 11/300,734 | 12/15/2005 | Louis Horvath | 29770-RA |

**CONFIRMATION NO. 2669**

30184
MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA, GA 30339

Date Mailed: 05/17/2007

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/23/2007.

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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Jin-il Kim | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647058 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,758 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Law Office of WILLIAM J. TUCKER
1512 El Campo Dr.
Dallas, TX 75218

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jeremy Touve | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7580372 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,786 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **752** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

OSHA LIANG LLP
TWO HOUSTON CENTER
909 FANNIN SUITE 3500
HOUSTON TX 77010

| | | |
|---|---|---|
| In re Application of | : | |
| Wevers, et al. | : | |
| Application No. 11/300,807 | : | DECISION ON PETITION |
| Filed: December 15, 2007 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 02468/006001 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to non-provisional application No. 10/925,693 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 items (1) and (3) above.

With respect to item (1), the reference to add application No. 10/925,693 in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference that application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (See 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in

an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

With respect to item (3), petitioner has not provided a statement that the **entire** delay "between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional."

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an Amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Lastly, it is noted that application No. 10/925,693 can not claim priority to provisional application Nos. 60/497,527 and 60/548,493, as there is no inventor in common between the nonprovisional and the provisional applications.

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 Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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**SEAN LIAM KELLEHER**
**KELLEHER IP PLLC**
**16 PECKSLIP RD**
**CARMEL, NY 10512**

**MAILED**

FEB 02 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **BAROR**, Yakov | : | |
| Application No. 11/300,814 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **S1120U** | : | FROM RECORD |
| | : | |

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 03, 2008.

The request is not approved because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to THE NATH LAW GROUP has been revoked by the assignee of the patent application on December 04, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THE NATH LAW GROUP**
**112 SOUTH WEST STREET**
**ALEXANDRIA, VA 22314**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Baker Botts L.L.P
910 Louisiana Street, One Shell Plaza
HOUSTON, TX 77002

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Madhusudhan Rangarajan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603597 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,820 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEAN LIAM KELLEHER
KELLEHER IP PLLC
16 PECKSLIP ROAD
CARMEL, NY 10512

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|---|---|---|
| In re Application of | : | |
| Yakov Bar Or | : | |
| Application No. 11/300,826 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 415/11 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 3, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Kelleher IP PLLC has been revoked by the assignee of the patent application on December 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: STRYKER GI LTD.
8 HAESHEL ST.,
BUSINESS & INDUSTRY PARK
PO BOX 3534
CAESAREA 38900 IL

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OFFICE OF PETITIONS

C JAMES BUSHMAN
5851 SAN FELIPE
SUITE 975
HOUSTON TX 77057

| | | |
|---|---|---|
| In re Application of | : | |
| Wood, et al. | : | |
| Application No. 11/300,842 | : | ON PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. Xtreme-18 | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 12, 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 13, 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 14, 2009. The Office mailed a Notice of Abandonment on October 9, 2009.

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 3676 for consideration of the Amendment, filed October 12, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: VARMA ET AL. DOCKET NO: 3849P2992 1764

SERIAL NO: 11/300856 FILING DATE: 12-15-05

TITLE: SORBENT COMPOSITIONS AND DESULFURIZATION METHOD USING SAME

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Weiss, Moy & Harris, P.C.
4204 N. Brown Avenue
Scottsdale, AZ 85251-3914

I hereby certify that on the 15th day of December, 2005, this correspondence is being deposited with the U.S. Postal Service as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Janine Novatt

Janine Rickman Novatt

PETITION AND STATEMENT TO MAKE SPECIAL
UNDER 37 CFR 1.102 AND MPEP 708.02

Dear Sir:

Applicant petitions that the above-identified patent application be granted special status and advanced examination because the utility of the invention materially enhances the quality of the environment of mankind by contributing to the restoration and maintenance of air quality. The present invention provides compositions and methods for desulfurization of liquid fossil fuels, thereby restoring and maintaining air quality.

If there are any fees incurred with the processing of this Petition to Make Special, please charge to our Deposit Account No. 23-0830.

Respectfully submitted,

Janine R Novatt

Janine Rickman Novatt
Reg. No. 32, 593
(480) 994-8888

JAN 30 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
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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : Kenneth W. Brown | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7629918 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,876 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: VARMA et al. DOCKET NO.: 3849P2991

Serial # 11/300879 12-15-05

TITLE: COMPOSITIONS AND METHODS FOR REMOVING MERCURY FROM MERCURY-CONTAINING FLUIDS

Au. 1724

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Weiss, Moy & Harris, P.C.
4204 North Brown Avenue
Scottsdale, AZ 85251-3914

December 15, 2005

I hereby certifiy that on the 15th day of December, 2005, this correspondence is being deposited with the U.S. Postal Service Service as Express Mail in an envelope Addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Janine Rickman Novatt

PETITION TO MAKE SPECIAL
UNDER 37 CFR 1.102 AND M.P.E.P. 708.02

Dear Sir:

Applicant petitions that the above-identified patent application be granted special status and advanced examination because the utility of the invention materially enhances the quality of the environment of mankind by contriubuting to the restoration and maintenance of air quality.

The present invention provides Compositions and Methods for Removing Mercury from Mercury-Containing Fluids, thereby restoring and maintaining air quality.

**PETITION GRANTED**

William Krynski
Special Program Examiner
Technology Center 1700
FEB 14 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of

Varma, et al.

Application No. 11/300,879

Filed: December 15, 2005

Attorney Docket No. **3849P2991**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 2, 2009, which set a shortened statutory period for reply of three (3) months from its mailing date. Accordingly, the application became abandoned on May 3, 2009.

The amendment filed August 4, 2009, is noted.

The application file is being directed to Technology Center, GAU 1793, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/300,885 | 12/15/2005 | Takao Tani | P05-1024 | 5206 |

7590 05/21/2008
YOKOI & CO. U.S.A., INC.
13700 MARINA POINTE DRIVE #723
MARINA DEL RAY, CA 90292

| EXAMINER |
|---|
| WEISKOPF, MARIE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3664 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/21/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioma Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
05/22/2008 NFARMER 0000162819

CHECK Refund Total: $500.00

Adjustment date: 05/22/2008 NFARMER
12/19/2005 CCHAU1 00000005 11300885
02 FC:1111 -500.00 OP



FORM PET651G (Rev. 08/07)

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**TROUTMAN SANDERS LLP**
**Bank of America Plaza**
**600 Peachtree Street N.E.**
**Suite 5200**
**Atlanta, GA 30308-2216**

MAILED

OCT 02 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Edwin B. BROWNRIGG et al | : | |
| Application No. 11/300,902 | : | RESPONSE TO PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. INTUSIQ2 | : | |

This is a response to the petition under 37 CFR 1.59(b), filed April 24, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner request the expungement of documents filed April 7, 2009, in a declaration submitted under 37 CFR 1.131. Specifically petitioner request that Exhibits C, D, E, F, Aand G be expunged from the said declaration.

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. 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 dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the information will be removed from the official file.

After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicant(s) or applicant(s)' representative. No further fee is required for such a second submission of a petition under 37

CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.**

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARINA LARSON & ASSOCIATES LLC
RE: MSK
PO BOX 4928
DILLON CO 80435-4928

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Robert Benezra | : | |
| Application No. 11/300,904 | : | ON PETITION |
| Filed: December 15, 2005 | : | |
| Attorney Docket No. MSK.P-065-2 | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 1, 2008.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed June 21, 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 22, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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 an election.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made

as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The matter is being forwarded to Group Art Unit 1632 for consideration of the Election filed February 1, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BRADLEY ARANT ROSE & WHITE LLP**
**200 CLINTON AVE. WEST**
**SUITE 900**
**HUNTSVILLE AL 35801**

COPY MAILED

JAN 1 0 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| William H. Walker | : | |
| Application No. 11/300908 | : | DECISION ON PETITION |
| Filed: December 15, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0B175-92367 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 12, 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 statement by the applicant, that he is older than 65 years. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3662 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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**Jill Robin Payne**
**10206 Ella Lee Lane**
**Houston, TX 77042**

COPY MAILED
SEP 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Jill Robin Payne | : | |
| Application No. 11/300,913 | : | DECISION ON PETITION |
| Filed: December 15, 2005 | : | TO WITHDRAW |
| Attorney Docket No. JP-001 | : | 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 August 15, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Bradley Allen Misley, sole attorney of record. Bradley Allen Misley has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address will remain the same.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
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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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/300,913 | 12/15/2005 | Jill Robin Payne | JP-001 |

**CONFIRMATION NO. 4647**

**POWER OF ATTORNEY NOTICE**

Jill Robin Payne
10206 Ella Lee Lane
Houston, TX 77042

*OC000000032067054*

Date Mailed: 09/15/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/15/2008.

- 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/

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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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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Abhinai Srivastava | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7627559 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,919 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **741** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

| | | |
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| **Applicant** | : Baskaran Dharmarajan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593548 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,920 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **870** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, Virginia 22313-1450
www.uspto.gov

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 05/18/2010

**Applicant** : Baskaran Dharmarajan
**Patent Number** : 7593548
**Issue Date** : 09/22/2009
**Application No** : 11/300,920
**Filed** : 12/15/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 6 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

| | |
|---|---|
| In re Application of | : |
| Sarreal et al. | : |
| Serial No.: 11/300,923 | : PETITION DECISION |
| Filed: December 15, 2005 | : |
| Attorney Docket No.: 1405-024 | |

This is in response to the petition under 37 CFR § 1.59(b), filed March 12, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 12, 2007, 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(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

AUG 31 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

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|---|---|
| In re Application of | : |
| Sarreal et al. | : |
| Serial No.: 11/300,923 | : PETITION DECISION |
| Filed: December 15, 2005 | : |
| Attorney Docket No.: 1405-024 | : |

This is in response to the renewed petition under 37 CFR § 1.59(b), filed August 22, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on March 12, 2007, 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(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicants' petition is GRANTED.

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. .

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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Timothy S. Stevens
5108 Foxpoint Circle
Midland MI 48642

MAILED

JUN 17 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Prouty et al. | : | |
| Application No. 11/300930 | : | |
| Filing or 371(c) Date: 12/15/2005 | : | ON PETITION |
| Attorney Docket Number: | : | |
| MSH-334R | : | |

This is a decision on the Request for Reconsideration of Petition Under 37 CFR 1.137(b), filed May 14, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 27, 2008. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on September 28, 2008. A Notice of Abandonment was mailed December 29, 2008.

Applicant files the instant petition and Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee (previously submitted); and (3) the required statement of unintentional delay (previously submitted). Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3744 for processing of the Amendment filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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**MAIL**

MAR 24 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Burt Magen
Vierra Magen Marcus & DeNiro LLP
575 Market Street, Suit 2500
San Francisco, CA 94105

| | | |
|---|---|---|
| In re Application of: O'Sullivan<br>Application No. 11/300943<br>Attorney Docket No. VID-1<br>Filed: December 15, 2005<br>For: MONITORING A SYSTEM USING WEIGHTING | )<br>)<br>)<br>)<br>) | **DECISION ON PETITION FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR §1.181** |

This is a decision on the petition filed Nov 6, 2008 under 37 C.F.R. §1.181 to consider three Information Disclosure Statements filed October 29, 2007, February 21, 2008, and March 6, 2008.

The petition is **Granted**.

## RELEVANT PROSECUTION HISTORY

| | |
|---|---|
| January 4, 2007 | The Examiner issued a Non-Final Rejection. |
| June 19, 2007 | An Information Disclosure Statement was filed. |
| June 27, 2007 | An Information Disclosure Statement was filed. |
| August 19, 2007 | The Examiner issued a Final Rejection and mailed out a 1449 considering the IDS filed June 19, 2007 and June 27, 2007. |
| October 29, 2007 | A Request for Continued Examination was filed along with an Information Disclosure Statement. |
| January 24, 2008 | The Examiner issued a Non-Final Rejection in response to a Request for Continued Examination |
| February 21, 2008 | An Information Disclosure Statement was filed. |
| March 6, 2008 | An Information Disclosure Statement was filed. |

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| June 25, 2008 | The Examiner issued a Final Rejection. |
| October 14, 2008 | An Information Disclosure Statement was filed. |
| October 24, 2008 | A Notice of Appeal was filed. |
| November 6, 2008 | An Appeal Brief was filed along with this petition to get the Information Disclosure Statements considered. |

## REGULATIONS AND PRACTICE

37 C.F.R. § 1.97(b) states:

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

37 C.F.R. § 1.97(c) states:

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application,
and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p).

37 C.F.R. § 1.97(e) states:

(e) A statement under this section must state either:

(1) 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 foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

## DECISION

The IDS filed October 29, 2007 was filed with the request for continued examination on October 29, 2007 so it shall be considered by the office under rule 37 C.F.R. § 1.97(b)(4).

The IDS filed February 21, 2008 contained the required statement 37 C.F.R. § 1.97(e)(2), thus shall be considered by the office under rule 37 C.F.R. § 1.97(c)(1).

The IDS filed March 6, 2008 contained the required fee set forth in § 1.17(p), thus shall be considered by the office under rule 37 C.F.R. § 1.97(c)(1).

Each of those IDS also meet the requirements of rules § 1.97 and § 1.98 in terms of content and form. Therefore, consideration of the Information Disclosure Statements filed October 29, 2007, February 21, 2008, and March 6, 2008 by the examiner is warranted.

For the above reasons, the petition is **GRANTED**.

The application will be forwarded to the examiner to consider the references in accordance with this decision.

/Kim Huynh/

Kim Huynh
Work Group QAS
Technology Center 2400

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**Vista IP Law Group LLP**
**2040 MAIN STREET, 9TH FLOOR**
**IRVINE CA 92614**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kerry Bradley | : | |
| Application No. 11/300,963 | : | DECISION ON PETITION |
| Filed: December 15, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 05-01631 (01) | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***ownership transfer***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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BRUCE E. LILLING
LILLING & LILLING P.C.
P.O. BOX 560
GOLDEN BRIDGE NY 10526

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JAN 19 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Howard Dobelle | : | |
| Application No. 11/300,970 | : | DECISION ON PETITION |
| Filed: December 14, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 737/1 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 4, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Lilling & Lilling P.C. has been revoked by the applicant of the patent application on October 27, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: HOWARD DOBELLE
2100 LINWOOD AVENUE
FORT LEE, NJ 07024

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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 |
|---|---|---|---|
| 11/300,970 | 12/14/2005 | Howard A. Dobelle | 737/1 |

**CONFIRMATION NO. 3395**

*OC000000021912392*

*OC000000021912392*

24101
BRUCE E. LILLING
LILLING & LILLING P.C.
P.O. BOX 560
GOLDEN BRIDGE, NY 10526

Date Mailed: 01/09/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

---

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Vikram Makam Gupta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643807 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/300,972 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1055** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APR 20 2009

OFFICE OF PETITIONS

Applicant: Allan et al.
Appl. No.: 11/300,997
Filing Date: December 15, 2005
Title: TELEPHONY AND DATA NETWORK SERVICES AT A TELEPHONE
Attorney Docket No.: RO3797USC (NORT10-00488)
Pub. No.: US 20070297394 A1
Pub. Date: December 27, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221, received on February 27, 2008, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors of typos in the specification.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

With respect to the typos, which comprise "MERIDLAN" rather than "MERIDIAN" and an extraneous right parenthesis, the understanding of the publication is not materially affected.

The above mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/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.

A "request for republication of an application previously published" filed under 37 CFR 1.221(a) "must include a copy of the application compliance with the Office's electronic filing system [EFS] requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." Applicant's petition does not comply with the EFS requirements. The republication will not take place and the publication fee set forth in § 1.18(d) has not been charged. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Mail Date: 05/13/2010

| | | |
|---|---|---|
| **Applicant** | : William Allan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7660295 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/300,997 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/15/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **945** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Mail Date: 05/19/2010

| | | |
|---|---|---|
| **Applicant** | : Gary Zeik | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7665249 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/301,036 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2005 | : 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.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/26/2009

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/301,052 Patent No.: 7456175

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**

_____
**Certificates of Correction Branch**
**703-308-9390 ext.** _____

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

**Comments:** _____

1624

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 02-06-09

**TO SPE OF** : ART UNIT 1624

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/301052 Patent No.: 7456175

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**

**Certificates of Correction Branch**
**703-308-9390 ext.** 123

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

**Comments:** _____

**SPE** **Art Unit** 1624

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**Suite 1150**
**200 Oceangate**
**Long Beach, CA 90802**

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| In re Application of | : | |
| Alexander R. Bellehumeur et al. | : | |
| Application No. 11/301,067 | : | DECISION ON PETITION |
| Filed: December 12, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. BELLA.72574 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 24, 2008, 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 from applicant Alexander R. Bellehumeur. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3618 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions